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15 Logistics, LLC

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

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

21 **Plaintiff,**

22 **vs.**

23 **PRUVIT VENTURES, INC.; LACORE**
24 **ENTERPRISES, LLC; LACORE**
25 **NUTRACEUTICALS, INC.; LACORE**
26 **LABS, INC.; LACORE LOGISTICS, LLC;**
27 **and DOES 1-100,**

28 **Defendants.**

CASE NO. RG20070991

STIPULATED CONSENT
JUDGMENT

Health & Safety Code § 25249.5, *et seq.*

Action Filed: August 17, 2020

Trial Date: None set

1. INTRODUCTION

1.1 On August 17, 2020, 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 Injunctive and Declaratory Relief and Civil Penalties pursuant to the provisions of California Health and Safety Code section 25249.5, *et seq.* ("Proposition 65"),

1 against Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore
2 Labs, Inc., and LaCore Logistics, LLC (collectively "Pruvit Ventures") and Does 1-100.
3 Subsequently, on September 18, 2020, a First Amended Complaint was filed. On March 23,
4 2021, a Second Amended Complaint was filed, and on September 20, 2021, a Third Amended
5 Complaint was filed (hereinafter referred to as the operative "Complaint"). In this action, ERC
6 alleges that a number of products manufactured, distributed, or sold by Pruvit Ventures contain
7 lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose
8 consumers to this chemical at a level requiring a Proposition 65 warning. These products
9 (referred to hereinafter individually as a "Covered Product" or collectively as "Covered
10 Products") are: (1) KETO//OS NAT Pure Therapeutic Ketones Swiss Cacao, (2) KETO//OS
11 NAT Pure Therapeutic Ketones Lime Time, (3) Keto//OS NAT Pure Therapeutic Ketones
12 Maui Punch, (4) Keto//OS NAT Pure Therapeutic Ketones Raspberry Lemonade, (5) Keto//OS
13 NAT Pure Therapeutic Ketones Splash, (6) Keto//OS NAT Pure Therapeutic Ketones Heart
14 Tart, (7) Keto//OS NAT Pure Therapeutic Ketones Caffeine Free Heart Tart, (8) KETO//OS
15 NAT Pure Therapeutic Ketones Trü Passion Caffeine Free, (9) KETO//OS NAT Pure
16 Therapeutic Ketones Caffeine Free Lime Time, (10) KETO//OS NAT Pure Therapeutic
17 Ketones Trü Passion Charged, (11) KETO//OS NAT Pure Therapeutic Ketones Caffeine Free
18 Maui Punch, (12) KETO//OS NAT Pure Therapeutic Ketones Splash Caffeine Free, and (13)
19 KETO//OS NAT Pure Therapeutic Ketones Raspberry Lemonade Caffeine Free.

20 **1.2** ERC and Pruvit Ventures are hereinafter referred to individually as a "Party" or
21 collectively as the "Parties."

22 **1.3** ERC is a 501(c)(3) California non-profit corporation dedicated to, among other
23 causes, helping safeguard the public from health hazards by reducing the use and misuse of
24 hazardous and toxic chemicals, facilitating a safe environment for consumers and employees,
25 and encouraging corporate responsibility.

26 **1.4** For purposes of this Consent Judgment, the Parties agree that each defendant is a
27 business entity, each of which has employed 10 or more persons at all times relevant to this
28 action, and qualifies as a "person in the course of doing business" within the meaning of

1 Proposition 65. Pruvit Ventures manufactures, distributes, and/or sells the Covered Products.

2 **1.5** The Complaint is based on allegations contained in ERC's Notices of Violation
3 dated June 5, 2020, July 2, 2020, December 22, 2020, and March 9, 2021 that were served on
4 the California Attorney General, other public enforcers, and Pruvit Ventures ("Notices"). True
5 and correct copies of the 60-Day Notices dated June 5, 2020, July 2, 2020, December 22, 2020
6 and March 9, 2021 are attached hereto as **Exhibits A, B, C, and D** respectively and each is
7 incorporated herein by reference. More than 60 days have passed since the Notices were served
8 on the Attorney General, public enforcers, and Pruvit Ventures and no designated
9 governmental entity has filed a Complaint against Pruvit Ventures with regard to the Covered
10 Products or the alleged violations.

11 **1.6** ERC's Notices and Complaint allege that use of the Covered Products by
12 California consumers exposes them to lead without first receiving clear and reasonable
13 warnings from Pruvit Ventures, which is in violation of California Health and Safety Code
14 section 25249.6. Pruvit Ventures denies all material allegations contained in the Notices and
15 Complaint.

16 **1.7** The Parties have entered into this Consent Judgment in order to settle,
17 compromise, and resolve disputed claims and thus avoid prolonged and costly litigation.
18 Nothing in this Consent Judgment nor compliance with this Consent Judgment shall constitute
19 or be construed as an admission by any of the Parties or by any of their respective officers,
20 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions,
21 franchisees, licensees, customers, suppliers, distributors, wholesalers, or retailers of any fact,
22 issue of law, or violation of law.

23 **1.8** Except as expressly set forth herein, nothing in this Consent Judgment shall
24 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in
25 any current or future legal proceeding unrelated to these proceedings.

26 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered
27 as a Judgment by this Court.

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1 **2. JURISDICTION AND VENUE**

2 For purposes of this Consent Judgment and any further court action that may become
3 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter
4 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction
5 over Pruvit Ventures as to the acts alleged in the Complaint, that venue is proper in Alameda
6 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final
7 resolution of all claims up through and including the Effective Date that were or could have been
8 asserted in this action based on the facts alleged in the Notices and Complaint.

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

10 **3.1** Beginning on the Effective Date, Pruvit Ventures shall be permanently enjoined
11 from manufacturing for sale in the State of California; “[d]istributing into the State of
12 California”; or directly selling in the State of California, any Covered Products that expose a
13 person to a “Daily Lead Exposure Level” of more than 0.5 micrograms of lead per day unless it
14 meets the warning requirements under Section 3.2.

15 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State
16 of California” shall mean to directly ship a Covered Product into California for sale in
17 California or to sell a Covered Product to a distributor that Pruvit Ventures knows or has
18 reason to know will sell the Covered Product in California.

19 **3.1.2** For purposes of this Consent Judgment, the Daily Lead Exposure Level
20 shall be measured in micrograms, and shall be calculated using the following formula:
21 micrograms of lead 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
23 of the product per day (using the largest number of recommended daily servings appearing on
24 the label), which equals micrograms of lead exposure per day. If the label contains no
25 recommended daily servings, then the number of recommended daily servings shall be one.

26 **3.2 Clear and Reasonable Warnings**


27 If Pruvit Ventures is required to provide a warning pursuant to Section 3.1, the following
28 warning must be utilized (“Warning”):

1 **OPTION 1:**

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

5 Or

6 **OPTION 2:**

7  **WARNING:** Cancer & Reproductive Harm - www.P65Warnings.ca.gov/food.

8 Pruvit Ventures shall use the phrase “cancer and” in the Warning if Pruvit Ventures has
9 reason to believe that the Daily Lead Exposure Level is greater than 15 micrograms of lead as
10 determined pursuant to the quality control methodology set forth in Section 3.4 or if Pruvit
11 Ventures has reason to believe that another Proposition 65 chemical is present that may require a
12 cancer warning. For the Option 2 Warning, the entire Warning must be in a type size no smaller
13 than the largest type size used for other consumer information on the product. In no case shall the
14 Warning appear in a type size smaller than 6-point type. Further, for Option 2, a symbol
15 consisting of a black exclamation point in a yellow equilateral triangle with a bold black outline
16 shall be placed to the left of the text of the Warning, in a size no smaller than the height of the
17 word “**WARNING.**” Where the sign, label or shelf tag for the product is not printed using the
18 color yellow, the symbol may be printed in black and white.

19 The Warning shall be securely affixed to or printed on the label of each Covered
20 Product and it must be set off from other surrounding information and enclosed in a box. In
21 addition, for any Covered Product sold over the internet, the Warning shall be provided to the
22 customer prior to completing purchase when a California delivery address is indicated for any
23 purchase of any Covered Product, and such warning shall provide sufficient information for the
24 consumer to identify which product(s) are subject to the Warning. In no event shall any
25 internet or website Warning be contained in or made through a link.

26 The Warning shall be at least the same size as the largest of any other health or safety
27 warnings also appearing on the website or on the label and the word “**WARNING**” shall be in all
28 capital letters and in bold print. No statements intended to or likely to have the effect of

1 diminishing the impact of the Warning on the average layperson shall accompany the Warning.
2 Further, no statements may accompany the Warning that state or imply that the source of the listed
3 chemical has an impact on or results in a less harmful effect of the listed chemical.

4 Pruvit Ventures must display the above Warning with such conspicuousness, as compared
5 with other words, statements or designs on the label, or on its website, if applicable, to render the
6 Warning likely to be read and understood by an ordinary individual under customary conditions
7 of purchase or use of the product.

8 For purposes of this Consent Judgment, the term "label" means a display of written,
9 printed or graphic material that is printed on or affixed to a Covered Product or its immediate
10 container or wrapper.

11 **3.3 Conforming Covered Products**

12 A Conforming Covered Product is a Covered Product for which the Daily Lead Exposure
13 Level is no greater than 0.5 micrograms of lead per day as determined by the exposure
14 methodology set forth in Section 3.1.2 and the quality control methodology described in Section
15 3.4, and that is not known by Pruvit Ventures to contain other chemicals that violate Proposition
16 65's safe harbor thresholds.

17 **3.4 Testing and Quality Control Methodology**

18 **3.4.1** Beginning within one year of the Effective Date, Pruvit Ventures shall
19 arrange for lead testing of the Covered Products at least once a year for a minimum of three
20 consecutive years by arranging for testing of three randomly selected samples of each of the
21 Covered Products, in the form intended for sale to the end user, which Pruvit Ventures intends
22 to sell or is manufacturing for sale in California, directly selling to a consumer in California or
23 "Distributing into the State of California." If tests conducted pursuant to this Section 3.4
24 demonstrate that no Warning is required for a Covered Product during each of three
25 consecutive years, then the testing requirements of this Section 3.4 will no longer be required
26 as to that Covered Product. However, if during or after the three-year testing period, Pruvit
27 Ventures changes ingredient suppliers for any of the Covered Products and/or reformulates any
28 of the Covered Products, Pruvit Ventures shall test that Covered Product annually for at least

1 two consecutive years after such change is made.

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

5 **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a
6 laboratory method that complies with the performance and quality control factors appropriate
7 for the method used, including limit of detection and limit of quantification, sensitivity,
8 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass
9 Spectrometry achieving a limit of quantification of less than or equal to 0.005 mg/kg.

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

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

17 **3.4.6** Within 30 days of ERC's written request, which request shall not be
18 made more than once per year, Pruvit Ventures shall deliver lab reports obtained pursuant to
19 Section 3.4 to ERC. Pruvit Ventures shall retain all test results and documentation for a period
20 of five years from the date of each test.

21 **3.4.7** The testing requirements of Section 3.4 do not apply to any Covered
22 Product for which Pruvit Ventures is providing a Warning, continuously and without
23 interruption from the Effective Date, pursuant to Section 3.2 of this Agreement. In the event a
24 Warning is provided after the Effective Date but Pruvit Ventures thereafter ceases to provide
25 the Warning, the testing and reporting requirements of Section 3.4 of this Agreement shall
26 apply beginning within one year after the date the Warning ceases to be provided, unless Pruvit
27 Ventures can show to the satisfaction of ERC that the cessation in providing the Warning was a
28 temporary error that was resolved when discovered.

1 **4. SETTLEMENT PAYMENT**

2 **4.1** In full satisfaction of all potential civil penalties, additional settlement
3 payments, attorneys' fees, and costs, Pruvit Ventures shall make a total payment of
4 \$400,000.00 ("Total Settlement Amount") to ERC within ten business days of Pruvit Venture's
5 receipt of ERC's notice of entry of the Court's Order adopting this Consent Judgment ("Due
6 Date"). Pruvit Ventures shall make this payment by wire transfer to ERC's account, for which
7 ERC will give Pruvit Ventures the necessary account information. The Total Settlement
8 Amount shall be apportioned as follows:

9 **4.2** \$176,000.00 shall be considered a civil penalty pursuant to California Health
10 and Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$132,000.00) of the civil
11 penalty to the Office of Environmental Health Hazard Assessment for deposit in the Safe
12 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety
13 Code section 25249.12(c). ERC will retain the remaining 25% (\$44,000.00) of the civil
14 penalty.

15 **4.3** \$11,366.00 shall be distributed to ERC as reimbursement to ERC for reasonable
16 costs incurred in bringing this action.

17 **4.4** \$131,735.04 shall be distributed to ERC as an Additional Settlement Payment
18 ("ASP"), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d),
19 and 3204. ERC will utilize the ASP for activities that address the same public harm as
20 allegedly caused by Defendants in this matter. These activities are detailed
21 below and support ERC's overarching goal of reducing and/or eliminating hazardous and toxic
22 chemicals in dietary supplement products in California. ERC's activities have had, and will
23 continue to have, a direct and primary effect within the State of California because California
24 consumers will be benefitted by the reduction and/or elimination of exposure to lead in dietary
25 supplements and/or by providing clear and reasonable warnings to California consumers prior
26 to ingestion of the Covered Products.

27 Based on a review of past years' actual budgets, ERC is providing the following list of
28 activities ERC engages in to protect California consumers through Proposition 65 citizen

1 enforcement, along with a breakdown of how ASP funds will be utilized to facilitate those
2 activities: (1) ENFORCEMENT (65-80%): obtaining, shipping, analyzing, and testing dietary
3 supplement products that may contain lead and are sold to California consumers. This work
4 includes continued monitoring and enforcement of past consent judgments and settlements to
5 ensure companies are in compliance with their obligations thereunder, with a specific focus on
6 those judgments and settlements concerning lead. This work also includes investigation of new
7 companies that ERC does not obtain any recovery through settlement or judgment; (2)
8 VOLUNTARY COMPLIANCE PROGRAM (10-20%): maintaining ERC's Voluntary
9 Compliance Program by acquiring products from companies, developing and maintaining a
10 case file, testing products from these companies, providing the test results and supporting
11 documentation to the companies, and offering guidance in warning or implementing a self-
12 testing program for lead in dietary supplement products; and (3) "GOT LEAD" PROGRAM
13 (up to 5%): maintaining ERC's "Got Lead?" Program, which reduces the number of
14 contaminated products that reach California consumers by providing access to free testing for
15 lead in dietary supplement products (products submitted to the program are screened for
16 ingredients that are suspected to be contaminated, and then may be purchased by ERC,
17 catalogued, and sent to a qualified laboratory for testing, and the results shared with the
18 consumer that submitted the product).

19 ERC shall be fully accountable in that it will maintain adequate records to document
20 and will be able to demonstrate how the ASP funds will be spent and can ensure that the funds
21 are being spent only for the proper designated purposes described in this Consent Judgment.

22 ERC shall provide the Attorney General, within 30 days of any request, copies of
23 documentation demonstrating how such funds have been spent.

24 **4.5** \$39,000.00 shall be distributed to Michael Freund as reimbursement of ERC's
25 attorney's fees, while \$41,898.96 shall be distributed to ERC for its in-house legal fees. Except
26 as explicitly provided herein, each Party shall bear its own fees and costs.

27 **4.6** If Pruvit Ventures fails to remit the Total Settlement Amount owed under
28 Section 4 of this Consent Judgment on or before the Due Date, Pruvit Ventures shall be

1 deemed to be in material breach of its obligations under this Consent Judgment. ERC shall
2 provide written notice of the delinquency to Pruvit Ventures via electronic mail. If Pruvit
3 Ventures fails to deliver the Total Settlement Amount within five days from the written notice,
4 the Total Settlement Amount shall accrue interest at the statutory judgment interest rate
5 provided in California Code of Civil Procedure section 685.010. Additionally, Pruvit Ventures
6 agrees to pay ERC's reasonable attorneys' fees and costs for any efforts to collect the payment
7 due under this Consent Judgment.

8 **5. MODIFICATION OF CONSENT JUDGMENT**

9 **5.1** This Consent Judgment may be modified only as to injunctive terms (i) by
10 written stipulation of the Parties and upon entry by the Court of a modified consent judgment
11 or (ii) by motion of either Party pursuant to Section 5.3 and upon entry by the Court of a
12 modified consent judgment.

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

25 **5.3** If Pruvit Ventures initiates or otherwise requests a modification under Section
26 5.1, and the meet and confer process leads to a joint motion or application for a modification of
27 the Consent Judgment, Pruvit Ventures shall reimburse ERC its costs and reasonable attorneys'
28 fees for the time spent in the meet and confer process and filing and arguing the motion or

1 application.

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

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

6 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming
7 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall
8 inform Pruvit Ventures in a reasonably prompt manner of its test results, including information
9 sufficient to permit Pruvit Ventures to identify the Covered Products at issue. Pruvit Ventures
10 shall, within 30 days following such notice, provide ERC with the testing data from an
11 independent third-party laboratory meeting the requirements of Sections 3.4.3 and 3.4.4 for at
12 least the last 365 calendar days for any Covered Product(s) specifically at issue. If Pruvit
13 Ventures timely provides the testing data and such testing demonstrates to the satisfaction of
14 ERC that Pruvit Ventures is in compliance with the terms of this Consent Judgment, ERC shall
15 not pursue any claim related to the Covered Product(s) specifically at issue and for which
16 Pruvit Ventures provided such test results. Should Pruvit Ventures fail to provide such testing
17 data, the Parties shall first attempt to resolve the matter prior to ERC taking any further legal
18 action. Should there be any other alleged breach of the terms of this Consent Judgment,
19 including but not limited to Section 10, the Parties shall first attempt to resolve the matter prior
20 to seeking appropriate injunctive or other relief.

21 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

1 **8.1** This Consent Judgment is a full, final, and binding resolution between, on the
2 one hand, ERC, on behalf of itself and its past and current officers, directors, shareholders,
3 agents, employees, representatives, attorneys, predecessors, successors, and/or assigns
4 (collectively, the “ERC Releasers”), and also in the public interest, and, on the other hand,
5 Pruvit Ventures and its respective officers, directors, shareholders, employees, agents, parent
6 companies, subsidiaries, divisions, suppliers, franchisees, licensees, customers (not including
7 private label customers of Pruvit Ventures), distributors, wholesalers, retailers, and all other
8 upstream and downstream entities in the distribution chain of any Covered Product, and the
9 predecessors, successors, and assigns of any of them, including but not limited to: LaCore
10 Enterprises, LLC; LaCore Nutraceuticals, LLC; LaCore Labs, Inc.; and LaCore Logistics, Inc.
11 (collectively, “Released Parties”).

12 **8.2** ERC, acting in the public interest, releases the Released Parties from any
13 and all claims for violations of Proposition 65 up to and including the Effective Date based on
14 exposure to lead from the Covered Products as set forth in the Notices of Violation. ERC, on
15 behalf of itself only, hereby fully releases and discharges the Released Parties from any and all
16 claims, actions, causes of action, suits, demands, liabilities, damages, penalties, fees, costs, and
17 expenses asserted, or that could have been asserted from the handling, use, or consumption of
18 the Covered Products, as to any alleged violation of Proposition 65 or its implementing
19 regulations arising from the failure to provide Proposition 65 warnings on the Covered
20 Products regarding lead up to and including the Effective Date.

21 **8.3** ERC, on behalf of the ERC Releasees only, and Pruvit Ventures, on its own
22 behalf and on behalf of the Released Parties only, further waive and release any and all claims
23 they may have against each other for all actions or statements made or undertaken in the course
24 of seeking or opposing enforcement of Proposition 65 in connection with the Notices and
25 Complaint up through and including the Effective Date, provided, however, that nothing in this
26 Section 8 shall affect or limit any Party’s right to seek to enforce the terms of this Consent
27 Judgment.

28 **8.4** It is possible that other claims not known to the Parties, arising out of the facts

1 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be
2 discovered. ERC, on behalf of the ERC Releasers only, and Pruvit Ventures, on behalf of itself
3 and the Released Parties only, acknowledge that this Consent Judgment is expressly intended
4 to cover and include all such claims up through and including the Effective Date, including all
5 rights of action therefor. ERC and Pruvit Ventures acknowledge that the claims released in
6 Sections 8.2 and 8.3 above may include unknown claims, and nevertheless waive California
7 Civil Code section 1542 as to any such unknown claims. California Civil Code section 1542
8 reads as follows:

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

15 ERC, on behalf of itself only, and Pruvit Ventures, on behalf of itself only, acknowledge and
16 understand the significance and consequences of this specific waiver of California Civil Code
17 section 1542.

18 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to
19 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead
20 in the Covered Products as set forth in the Notices and Complaint.

21 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or
22 environmental exposures arising under Proposition 65, nor shall it apply to any of Pruvit
23 Ventures' products other than the Covered Products.

24 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

25 If any of the provisions of this Consent Judgment are held by a court to be unenforceable,
26 the validity of the remaining enforceable provisions shall not be adversely affected.

27 **10. GOVERNING LAW**

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

11. PROVISION OF NOTICE

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

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

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

10 With a copy to:

11 Michael Freund
12 Michael Freund & Associates
13 1919 Addison Street, Suite 105
14 Berkeley, CA 94704
15 Ph: (510) 540-1992
16 Email: freund1@aol.com

17 **FOR PRUVIT VENTURES, INC.; LACORE ENTERPRISES, LLC; LACORE
18 NUTRACEUTICALS, INC.; LACORE LABS, INC.; LACORE LOGISTICS, LLC:**

19 Jenifer Grace, Esq.
20 President & Chief Legal Counsel
21 Lacore Enterprises, LLC
22 901 Sam Rayburn Hwy
23 Melissa, TX 42121

24 With a copy to:

25 Bao M. Vu
26 Stoel Rives LLP
27 Three Embarcadero Center, Suite 1120
28 San Francisco, CA 94111
Ph: (415) 500-6572
Email: bao.vu@stoel.com

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,

1 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible
2 prior to the hearing on the motion.

3 **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be
4 void and have no force or effect.

5 **13. EXECUTION AND COUNTERPARTS**

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

9 **14. DRAFTING**

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

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

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

23 **16. ENFORCEMENT**

24 ERC may, by motion or order to show cause before the Superior Court of Alameda
25 County, enforce the terms and conditions contained in this Consent Judgment. In any action
26 brought by ERC to enforce this Consent Judgment, ERC may seek whatever fines, costs,
27 penalties, or remedies as are provided by law for failure to comply with the Consent Judgment.
28 To the extent the failure to comply with the Consent Judgment constitutes a violation of

1 Proposition 65 or other laws, ERC shall not be limited to enforcement of this Consent
2 Judgment, but may seek in another action whatever fines, costs, penalties, or remedies as are
3 provided by law for failure to comply with Proposition 65 or other laws.

4 **17. ENTIRE AGREEMENT, AUTHORIZATION**

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

11 **17.2** Each signatory to this Consent Judgment certifies that he or she is fully
12 authorized by the Party he or she represents to stipulate to this Consent Judgment.

13 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND ENTRY OF**
14 **CONSENT JUDGMENT**

15 This Consent Judgment has come before the Court upon the request of the Parties. The
16 Parties request the Court to fully review this Consent Judgment and, being fully informed
17 regarding the matters that are the subject of this action, to:

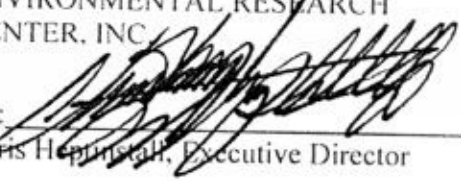
18 (1) Find that the terms and provisions of this Consent Judgment represent a fair and
19 equitable settlement of all matters raised by the allegations of the Complaint that the matter has
20 been diligently prosecuted, and that the public interest is served by such settlement; and

21 (2) Make the findings pursuant to California Health and Safety Code section
22 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

23 **IT IS SO STIPULATED:**

24 Dated: 12/30/, 2021

25 ENVIRONMENTAL RESEARCH
26 CENTER, INC

27 By: 
28 Chris Heppinstall, Executive Director

1 Dated: December 31, 2021

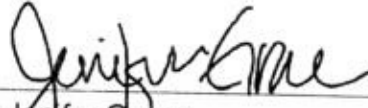
PRUVIT VENTURES, INC.

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3 

4 By: Jennifer Grace
5 Its: Director and Corporate Secretary

6 Dated: December 31, 2021

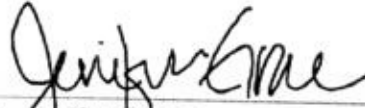
LACORE ENTERPRISES, LLC

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8 

9 By: Jennifer Grace
10 Its: President and Manager

11
12 Dated: December 31, 2021

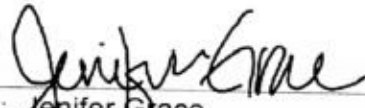
LACORE NUTRACEUTICALS, INC.

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14 

15 By: Jennifer Grace
16 Its: Director and Corporate Secretary

17
18 Dated: December 31, 2021

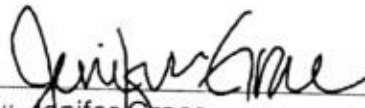
LACORE LABS, INC.

19
20 

21 By: Jennifer Grace
22 Its: Director and Corporate Secretary

23
24 Dated: December 31, 2021

LACORE LOGISTICS, LLC


25
26 

27 By: Jennifer Grace
28 Its: Manager and Corporate Secretary

1 APPROVED AS TO FORM:
2


3 Dated: 12/30/, 2021
4

MICHAEL FREUND & ASSOCIATES

5 By: 
6 Michael Freund
7 Attorney for Environmental Research
8 Center, Inc.

9 Dated: December 30, 2021
10

STOEL RIVES LLP

11 By: 
12 Bao M. Vu
13 Attorney for Pruvit Ventures, Inc., LaCore
14 Enterprises, LLC, LaCore Nutraceuticals,
15 Inc., LaCore Labs, Inc., and LaCore
16 Logistics, LLC
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1 **ORDER AND JUDGMENT**

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

4 IT IS SO ORDERED, ADJUDGED AND DECREED.

5
6 Dated: _____, 2022

7 _____
8 Judge of the Superior Court
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EXHIBIT A

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

June 5, 2020

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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 product identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with this product. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Pruvit Ventures, Inc.
LaCore Enterprises, LLC
LaCore Nutraceuticals, Inc.
LaCore Labs, Inc.
LaCore Logistics, LLC

Consumer Product and Listed Chemical. The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels is:

KETO//OS NAT Pure Therapeutic Ketones Swiss Cacao – 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.

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 this product. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least June 5, 2017, as well as every day since the product was introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting this product with appropriate warnings that they are being exposed to this chemical.

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 Violators to: (1) reformulate the identified product so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of this product; (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 product in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., LaCore Logistics, LLC, and their Registered Agents 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 Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., and LaCore Logistics, LLC

I, Michael Freund, declare:

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

2. I am an attorney 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 chemical that is 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 Violators 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: June 5, 2020

Michael Freund

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 June 5, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Pruvit Ventures, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for Pruvit Ventures, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
Pruvit Ventures, Inc.
1801 S Industrial Park
Van Alstyne, TX 75495

URS Agents Inc.
(Registered Agent for Pruvit Ventures, Inc.)
7801 Folsom Blvd, Ste 202
Sacramento, CA 95826

Current CEO or President
LaCore Labs, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Enterprises, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Logistics, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Nutraceuticals, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

The Grace Firm, PC
(Registered Agent for LaCore Enterprises, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Nutraceuticals, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Labs, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Logistics, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

On June 5, 2020, 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
Oakland, CA 94612-0550

On June 5, 2020, 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** 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

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

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

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

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

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

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

Summer Stephan, District Attorney
San Diego County
330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdcda.org

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

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

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

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

June 5, 2020

Page 6

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th 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, 4th 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

Bud Porter, 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

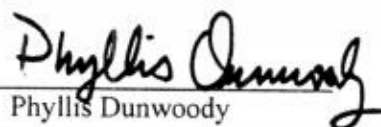
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

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

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

On June 5, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on June 5, 2020, in Fort Oglethorpe, Georgia.


Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador
County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa
County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte
County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St
Placerville, CA 95667

District Attorney, Fresno
County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial
County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles
County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera
County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin
County
3501 Civic Center Drive,
Room 130
San Rafael, CA 94903

District Attorney, Mariposa
County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino
County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced
County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc
County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada
County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange
County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer
County
10810 Justice Center Drive,
Ste 240
Roseville, CA 95678

District Attorney, Plumas
County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito
County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Mateo
County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta
County
1355 West Street
Redding, CA 96001

District Attorney, Sierra
County
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

District Attorney, Siskiyou
County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano
County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama
County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne
County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba
County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's
Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

San Jose City Attorney's
Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT B

Michael Freund & Associates

1919 Addison Street, Suite 105

Berkeley, CA 94704

Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

July 2, 2020

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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 product identified below. These violations have occurred and continue to occur because the alleged Violators identified below failed to provide required clear and reasonable warnings with this product. This letter serves as a notice of these violations to the alleged Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Pruvit Ventures, Inc.
LaCore Enterprises, LLC
LaCore Nutraceuticals, Inc.
LaCore Labs, Inc.
LaCore Logistics, LLC

Consumer Product and Listed Chemical. The product that is the subject of this notice and the chemical in that product identified as exceeding allowable levels is:

KETO//OS NAT Pure Therapeutic Ketones Lime Time -- 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.

July 2, 2020

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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 this product. Consequently, the route of exposure to this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least July 2, 2017, as well as every day since the product was introduced into the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until this known toxic chemical is either removed from or reduced to allowable levels in the product. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to the identified chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting this product with appropriate warnings that they are being exposed to this chemical.

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 Violators to: (1) reformulate the identified product so as to eliminate further exposures to the identified chemical, or provide appropriate warnings on the labels of this product; (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 product in the last three years. Such a resolution will prevent further unwarned consumer exposures to the identified chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., LaCore Logistics, LLC, and their Registered Agents 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 Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., and LaCore Logistics, LLC

I, Michael Freund, declare:

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

2. I am an attorney 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 chemical that is 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 Violators 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: July 2, 2020



Michael Freund

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 July 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Pruvit Ventures, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for Pruvit Ventures, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
Pruvit Ventures, Inc.
1801 S Industrial Park
Van Alstyne, TX 75495

URS Agents Inc.
(Registered Agent for Pruvit Ventures, Inc.)
7801 Folsom Blvd, Ste 202
Sacramento, CA 95826

Current CEO or President
LaCore Labs, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Enterprises, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Logistics, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Nutraceuticals, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

The Grace Firm, PC
(Registered Agent for LaCore Enterprises, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Nutraceuticals, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Labs, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Logistics, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

July 2, 2020

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On July 2, 2020, 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
Oakland, CA 94612-0550

On July 2, 2020, 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** 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

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

Jeannine M. Pacioni, District Attorney
Monterey County
1200 Aguajito Road
Monterey, CA 93940
Prop65DA@co.monterey.ca.us

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
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

Summer Stephan, District Attorney
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330 West Broadway
San Diego, CA 92101
SanDiegoDAProp65@sdca.org

Mark Ankorn, 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

July 2, 2020

Page 6

Valerie Lopez, Deputy City Attorney
San Francisco City Attorney
1390 Market Street, 7th Floor
San Francisco, CA 94102
Valerie.Lopez@sfcityattorney.org

Tori Verber Salazar, District Attorney
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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, 4th 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

Bud Porter, Supervising Deputy District Attorney
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70 W Hedding St
San Jose, CA 95110
EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney
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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

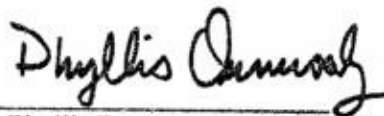
Phillip J. Cline, District Attorney
Tulare County
221 S Mooney Blvd
Visalia, CA 95370
Prop65@co.tulare.ca.us

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

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

On July 2, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on July 2, 2020, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

Service List

District Attorney, Alpine County P.O. Box 248 Markleeville, CA 96120	District Attorney, Madera County 209 West Yosemite Avenue Madera, CA 93637	District Attorney, San Mateo County 400 County Ctr., 3rd Floor Redwood City, CA 94063
District Attorney, Amador County 708 Court Street, Suite 202 Jackson, CA 95642	District Attorney, Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	District Attorney, Shasta County 1355 West Street Redding, CA 96001
District Attorney, Butte County 25 County Center Drive, Suite 245 Oroville, CA 95965	District Attorney, Mariposa County Post Office Box 730 Mariposa, CA 95338	District Attorney, Sierra County 100 Courthouse Square, 2 nd Floor Downieville, CA 95936
District Attorney, Colusa County 346 Fifth Street Suite 101 Colusa, CA 95932	District Attorney, Mendocino County Post Office Box 1000 Ukiah, CA 95482	District Attorney, Siskiyou County Post Office Box 986 Yreka, CA 96097
District Attorney, Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	District Attorney, Merced County 550 W. Main Street Merced, CA 95340	District Attorney, Solano County 675 Texas Street, Ste 4500 Fairfield, CA 94533
District Attorney, El Dorado County 778 Pacific St Placerville, CA 95667	District Attorney, Modoc County 204 S Court Street, Room 202 Alturas, CA 96101-4020	District Attorney, Stanislaus County 832 12th Street, Ste 300 Modesto, CA 95354
District Attorney, Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	District Attorney, Mono County Post Office Box 617 Bridgeport, CA 93517	District Attorney, Sutter County 463 2 nd Street Yuba City, CA 95991
District Attorney, Glenn County Post Office Box 430 Willows, CA 95988	District Attorney, Nevada County 201 Commercial Street Nevada City, CA 95959	District Attorney, Tehama County Post Office Box 519 Red Bluff, CA 96080
District Attorney, Humboldt County 825 5th Street 4 th Floor Eureka, CA 95501	District Attorney, Orange County 401 West Civic Center Drive Santa Ana, CA 92701	District Attorney, Trinity County Post Office Box 310 Weaverville, CA 96093
District Attorney, Imperial County 940 West Main Street, Ste 102 El Centro, CA 92243	District Attorney, Placer County 10810 Justice Center Drive, Ste 240 Roseville, CA 95678	District Attorney, Tuolumne County 423 N. Washington Street Sonora, CA 95370
District Attorney, Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	District Attorney, Plumas County 520 Main Street, Room 404 Quincy, CA 95971	District Attorney, Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
District Attorney, Kings County 1400 West Lacey Boulevard Hanford, CA 93230	District Attorney, San Benito County 419 Fourth Street, 2nd Floor Hollister, CA 95023	Los Angeles City Attorney's Office City Hall East 200 N. Main Street, Suite 800 Los Angeles, CA 90012
District Attorney, Lake County 255 N. Forbes Street Lakeport, CA 95453	District Attorney, San Bernardino County 303 West Third Street San Bernadino, CA 92415	San Jose City Attorney's Office 200 East Santa Clara Street, 16 th Floor San Jose, CA 95113
District Attorney, Los Angeles County Hall of Justice 211 West Temple St., Ste 1200 Los Angeles, CA 90012		

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before “knowingly and intentionally” exposing that person to a listed chemical unless an exemption applies. The warning given must be “clear and reasonable.” This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses “no significant risk.” This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific “No Significant Risk Levels” (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the “no observable effect level” divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a “significant amount” of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a “significant amount” of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A “significant amount” means any detectable amount, except an amount that would meet the “no significant risk” level for chemicals that cause cancer or that is 1,000 times below the “no observable effect” level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at:
<http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

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EXHIBIT C

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

December 22, 2020

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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 Violators 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 Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

Pruvit Ventures, Inc.
LaCore Enterprises, LLC
LaCore Nutraceuticals, Inc.
LaCore Labs, Inc.
LaCore Logistics, LLC

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

- 1. Keto//OS NAT Pure Therapeutic Ketones Maui Punch - Lead**
- 2. Keto//OS NAT Pure Therapeutic Ketones Raspberry Lemonade - Lead**
- 3. Keto//OS NAT Pure Therapeutic Ketones Splash - Lead**
- 4. Keto//OS NAT Pure Therapeutic Ketones Heart Tart - Lead**
- 5. Keto//OS NAT Pure Therapeutic Ketones Caffeine Free Heart Tart - 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.

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 this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least December 22, 2017, 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 this known toxic chemical is 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 chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

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 Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, 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 chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., LaCore Logistics, LLC, and their Registered Agents 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 Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., and LaCore Logistics, LLC

I, Michael Freund, declare:

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

2. I am an attorney 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 chemical that is 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 Violators 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: December 22, 2020



Michael Freund

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 December 22, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Pruvit Ventures, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for Pruvit Ventures, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
Pruvit Ventures, Inc.
1801 S Industrial Park
Van Alstyne, TX 75495

URS Agents Inc.
(Registered Agent for Pruvit Ventures, Inc.)
7801 Folsom Blvd, Ste 202
Sacramento, CA 95826

Current CEO or President
LaCore Labs, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Enterprises, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Logistics, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Nutraceuticals, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

The Grace Firm, PC
(Registered Agent for LaCore Enterprises, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Nutraceuticals, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Labs, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Logistics, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

On December 22, 2020, 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
Oakland, CA 94612-0550

On December 22, 2020, 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** 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

Gary Lieberstein, District Attorney
Napa County
931 Parkway Mall
Napa, CA 94559
CEPD@countyofnapa.org

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

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

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

Anne Marie Schubert, District Attorney
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Sacramento, CA 95814
Prop65@sacda.org

Thomas L. Hardy, District Attorney
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Independence, CA 93526
inyoda@inyocounty.us

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SanDiegoDAProp65@sdca.org

Michelle Latimer, Program Coordinator
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Susanville, CA 96130
mlatimer@co.lassen.ca.us

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

Jeannine M. Pacioni, District Attorney
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Monterey, CA 93940
Prop65DA@co.monterey.ca.us

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

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

December 22, 2020

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

Tori Verber Salazar, District Attorney
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DAConsumer.Environmental@sjcda.org

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San Luis Obispo, CA 93408
edobroth@co.slo.ca.us

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DAProp65@co.santa-barbara.ca.us

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Phillip J. Cline, District Attorney
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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

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

On December 22, 2020, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on December 22, 2020, in Fort Oglethorpe, Georgia.

Phyllis Dunwoody

Service List

District Attorney, Alpine
County
P.O. Box 248
Markleeville, CA 96120

District Attorney, Amador
County
708 Court Street, Suite 202
Jackson, CA 95642

District Attorney, Butte
County
25 County Center Drive, Suite
245
Oroville, CA 95965

District Attorney, Colusa
County
346 Fifth Street Suite 101
Colusa, CA 95932

District Attorney, Del Norte
County
450 H Street, Room 171
Crescent City, CA 95531

District Attorney, El Dorado
County
778 Pacific St
Placerville, CA 95667

District Attorney, Fresno
County
2220 Tulare Street, Suite 1000
Fresno, CA 93721

District Attorney, Glenn
County
Post Office Box 430
Willows, CA 95988

District Attorney, Humboldt
County
825 5th Street 4th Floor
Eureka, CA 95501

District Attorney, Imperial
County
940 West Main Street, Ste 102
El Centro, CA 92243

District Attorney, Kern County
1215 Truxtun Avenue
Bakersfield, CA 93301

District Attorney, Kings
County
1400 West Lacey Boulevard
Hanford, CA 93230

District Attorney, Lake County
255 N. Forbes Street
Lakeport, CA 95453

District Attorney, Los Angeles
County
Hall of Justice
211 West Temple St., Ste 1200
Los Angeles, CA 90012

District Attorney, Madera
County
209 West Yosemite Avenue
Madera, CA 93637

District Attorney, Marin
County
3501 Civic Center Drive,
Room 130
San Rafael, CA 94903

District Attorney, Mariposa
County
Post Office Box 730
Mariposa, CA 95338

District Attorney, Mendocino
County
Post Office Box 1000
Ukiah, CA 95482

District Attorney, Merced
County
550 W. Main Street
Merced, CA 95340

District Attorney, Modoc
County
204 S Court Street, Room 202
Alturas, CA 96101-4020

District Attorney, Mono
County
Post Office Box 617
Bridgeport, CA 93517

District Attorney, Nevada
County
201 Commercial Street
Nevada City, CA 95959

District Attorney, Orange
County
401 West Civic Center Drive
Santa Ana, CA 92701

District Attorney, Placer
County
10810 Justice Center Drive,
Ste 240
Roseville, CA 95678

District Attorney, Plumas
County
520 Main Street, Room 404
Quincy, CA 95971

District Attorney, San Benito
County
419 Fourth Street, 2nd Floor
Hollister, CA 95023

District Attorney, San
Bernardino County
303 West Third Street
San Bernardino, CA 92415

District Attorney, San Mateo
County
400 County Ctr., 3rd Floor
Redwood City, CA 94063

District Attorney, Shasta
County
1355 West Street
Redding, CA 96001

District Attorney, Sierra
County
100 Courthouse Square, 2nd
Floor
Downieville, CA 95936

District Attorney, Siskiyou
County
Post Office Box 986
Yreka, CA 96097

District Attorney, Solano
County
675 Texas Street, Ste 4500
Fairfield, CA 94533

District Attorney, Stanislaus
County
832 12th Street, Ste 300
Modesto, CA 95354

District Attorney, Sutter
County
463 2nd Street
Yuba City, CA 95991

District Attorney, Tehama
County
Post Office Box 519
Red Bluff, CA 96080

District Attorney, Trinity
County
Post Office Box 310
Weaverville, CA 96093

District Attorney, Tuolumne
County
423 N. Washington Street
Sonora, CA 95370

District Attorney, Yuba
County
215 Fifth Street, Suite 152
Marysville, CA 95901

Los Angeles City Attorney's
Office
City Hall East
200 N. Main Street, Suite 800
Los Angeles, CA 90012

San Jose City Attorney's
Office
200 East Santa Clara Street,
16th Floor
San Jose, CA 95113

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals In Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.

EXHIBIT D

Michael Freund & Associates

1919 Addison Street, Suite 105
Berkeley, CA 94704
Voice: 510.540.1992 • Fax: 510.371.0885

Michael Freund, Esq.

March 9, 2021

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

Dear Alleged Violators and the Appropriate Public Enforcement Agencies:

I represent Environmental Research Center, Inc. ("ERC"), 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. (619) 500-3090. ERC's Executive Director is Chris Heptinstall. 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 Violators 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 Violators and the appropriate public enforcement agencies. Pursuant to Health and Safety Code Section 25249.7(d), 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 enclosed with this letter served to the alleged Violators identified below.

Alleged Violators. The names of the companies covered by this notice that violated Proposition 65 (hereinafter the "Violators") are:

**Pruvit Ventures, Inc.
LaCore Enterprises, LLC
LaCore Nutraceuticals, Inc.
LaCore Labs, Inc.
LaCore Logistics, LLC**

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

- 1. KETO//OS NAT Pure Therapeutic Ketones Trü Passion Caffeine Free - Lead**
- 2. KETO//OS NAT Pure Therapeutic Ketones Caffeine Free Lime Time - Lead**
- 3. KETO//OS NAT Pure Therapeutic Ketones Trü Passion Charged - Lead**
- 4. KETO//OS NAT Pure Therapeutic Ketones Caffeine Free Maui Punch - Lead**
- 5. KETO//OS NAT Pure Therapeutic Ketones Splash Caffeine Free - Lead**
- 6. KETO//OS NAT Pure Therapeutic Ketones Raspberry Lemonade Caffeine Free - Lead**

March 9, 2021

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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.

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 this chemical has been and continues to be through ingestion.

Approximate Time Period of Violations. Ongoing violations have occurred every day since at least March 9, 2018, 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 this known toxic chemical is 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 chemical. The method of warning should be a warning that appears on the product label. The Violators violated Proposition 65 because they failed to provide persons ingesting these products with appropriate warnings that they are being exposed to this chemical.

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 Violators to: (1) reformulate the identified products so as to eliminate further exposures to the identified chemical, 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 chemical, as well as an expensive and time-consuming litigation.

ERC has retained me as legal counsel in connection with this matter. **Please direct all communications regarding this Notice of Violation to my attention at the law office address and telephone number indicated on the letterhead or at freund1@aol.com.**

Sincerely,



Michael Freund

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., and LaCore Logistics, LLC and their Registered Agents for Service of Process only)

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

March 9, 2021

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CERTIFICATE OF MERIT

Re: Environmental Research Center, Inc.'s Notice of Proposition 65 Violations by Pruvit Ventures, Inc., LaCore Enterprises, LLC, LaCore Nutraceuticals, Inc., LaCore Labs, Inc., and LaCore Logistics, LLC

I, Michael Freund, declare:

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

2. I am an attorney 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 chemical that is 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 Violators 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 9, 2021

Michael Freund

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 9, 2021 between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Current CEO or President
Pruvit Ventures, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for Pruvit Ventures, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
Pruvit Ventures, Inc.
1801 S Industrial Park
Van Alstyne, TX 75495

URS Agents Inc.
(Registered Agent for Pruvit Ventures, Inc.)
7801 Folsom Blvd, Ste 202
Sacramento, CA 95826

Current CEO or President
LaCore Labs, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Enterprises, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Logistics, LLC
901 Sam Rayburn Hwy
Melissa, TX 75454

Current CEO or President
LaCore Nutraceuticals, Inc.
901 Sam Rayburn Hwy
Melissa, TX 75454

The Grace Firm, PC
(Registered Agent for LaCore Enterprises, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Nutraceuticals, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Logistics, LLC)
901 Sam Rayburn Hwy
Melissa, TX 75454

Jenifer Grace
(Registered Agent for LaCore Labs, Inc.)
901 Sam Rayburn Hwy
Melissa, TX 75454

On March 9, 2021 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

March 9, 2021

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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
Oakland, CA 94612-0550

On March 9, 2021 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** 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

Jeannine M. Pacioni, District Attorney
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Monterey, CA 93940
Prop65DA@co.monterey.ca.us

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

Allison Haley, District Attorney
Napa County
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Napa, CA 94559
CEPD@countyofnapa.org

Stacey Grassini, Deputy District Attorney
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Martinez, CA 94553
sgrassini@contracostada.org

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Prop65@rivcoda.org

Thomas L. Hardy, District Attorney
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inyoda@inyocounty.us

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Susanville, CA 96130
mlatimer@co.lassen.ca.us

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davidhollister@countyofplumas.com

Kimberly Lewis, District Attorney
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Sacramento, CA 95814
Prop65@sacda.org

March 9, 2021

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Summer Stephan, District Attorney
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SanDiegoDAProp65@sdca.org

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CityAttyProp65@sandiego.gov

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DAConsumer.Environmental@sjcda.org

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Santa Barbara, CA 93101
DAProp65@co.santa-barbara.ca.us

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EPU@da.sccgov.org

Jeffrey S. Rosell, District Attorney
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Prop65DA@santacruzcounty.us

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

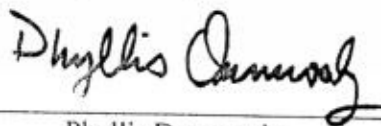
Phillip J. Cline, District Attorney
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Visalia, CA 95370
Prop65@co.tulare.ca.us

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

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

On March 9, 2021 between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATION, 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 at a U.S. Postal Service Office with the postage fully prepaid for delivery by First Class Mail.

Executed on March 9, 2021, in Fort Oglethorpe, Georgia.



Phyllis Dunwoody

APPENDIX A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and OEHHA implementing regulations (see citations below) for further information.

FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 (Health and Safety Code Sections 25249.5 through 25249.13) is available online at: <http://oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to

¹ All further regulatory references are to sections of Title 27 of the California Code of Regulations unless otherwise indicated. The statute, regulations and relevant case law are available on the OEHHA website at: <http://www.oehha.ca.gov/prop65/law/index.html>.

female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html.

Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Period. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

² See Section 25501(a)(4).

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off-premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A copy of the notice of special compliance procedure and proof of compliance form is included in Appendix B and can be downloaded from OEHHA's website at: <http://oehha.ca.gov/prop65/law/p65law72003.html>.

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS...

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Revised: May 2017

NOTE: Authority cited: Section 25249.12, Health and Safety Code. Reference: Sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11, Health and Safety Code.