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11

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

14 **ENVIRONMENTAL RESEARCH**  
15 **CENTER, INC., a California non-profit**  
16 **corporation**

17 **Plaintiff,**

18 **vs.**

19 **SOULFUL NUTRITION, INC., individually**  
20 **and dba REMEDY ORGANICS; and DOES**  
21 **1-100**

22 **Defendants.**

**CASE NO. 23CV028720**

**ASSIGNED FOR ALL PURPOSES**  
**TO JUDGE JAMES REILLY**  
**DEPARTMENT 25**

**STIPULATED CONSENT**  
**JUDGMENT**

Health & Safety Code § 25249.5 *et seq.*

Action Filed: March 2, 2023

Trial Date: None set

23 **1. INTRODUCTION**

24 **1.1** On March 2, 2023, Plaintiff Environmental Research Center, Inc. (“ERC”), a  
25 non-profit corporation, as a private enforcer and in the public interest, initiated this action by  
26 filing a Complaint for Injunctive and Declaratory Relief and Civil Penalties (the “Complaint”)  
27 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*  
28 (“Proposition 65”), against Soulful Nutrition, Inc., individually and dba Remedy Organics

1 (“Soulful Nutrition”) and Does 1-100. In this action, ERC alleges that a number of products  
2 manufactured, distributed, or sold by Soulful Nutrition contain lead and/or mercury, chemicals  
3 listed under Proposition 65 as carcinogens and/or reproductive toxins, and expose consumers  
4 to these chemicals at a level requiring a Proposition 65 warning. These products (referred to  
5 hereinafter individually as a “Covered Product” or collectively as “Covered Products”) are: (1)  
6 Remedy Organics Super Chai Fuel 12g Protein (lead, mercury), (2) Remedy Organics Cacao  
7 Essentials 16g Protein (lead, mercury), (3) Remedy Organics Vanilla Essentials 12g Protein  
8 (lead), (4) Remedy Organics Golden Mind 10g Protein (lead), (5) Remedy Organics Blue  
9 Oxidants 8g Protein (lead, mercury), (6) Remedy Organics Berry Immunity 10g Protein (lead),  
10 (7) Remedy Organics Chocolate Keto 16g Protein (lead), (8) Remedy Organics Cold Brew  
11 Keto 16g Protein (lead, mercury), (9) Remedy Organics Vanilla Keto 16g Protein (lead,  
12 mercury), (10) Remedy Organics Energize Me Immunity+Energy (lead, mercury), and (11)  
13 Remedy Organics Protect Me Immunity+Defense (mercury).

14 **1.2** ERC and Soulful Nutrition are hereinafter referred to individually as a “Party”  
15 or collectively as the “Parties.”

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

20 **1.4** For purposes of this Consent Judgment, the Parties agree that Soulful Nutrition is a  
21 business entity that has employed ten or more persons at all times relevant to this action, and  
22 qualifies as a “person in the course of doing business” within the meaning of Proposition 65.  
23 Soulful Nutrition manufactures, distributes, and/or sells the Covered Products.

24 **1.5** The Complaint is based on allegations contained in ERC’s Notices of Violation  
25 dated October 6, 2022, October 18, 2022, and October 28, 2022 that were served on the  
26 California Attorney General, other public enforcers, and Soulful Nutrition (“Notices”). True  
27 and correct copies of the 60-Day Notices dated October 6, 2022, October 18, 2022, and  
28 October 28, 2022 are attached hereto as **Exhibits A, B, and C** and each is incorporated herein

1 by reference. More than 60 days have passed since the Notices were served on the Attorney  
2 General, public enforcers, and Soulful Nutrition and no designated governmental entity has  
3 filed a Complaint against Soulful Nutrition with regard to the Covered Products or the alleged  
4 violations.

5 **1.6** ERC's Notices and Complaint allege that use of the Covered Products by  
6 California consumers exposes them to lead and/or mercury without first receiving clear and  
7 reasonable warnings from Soulful Nutrition, which is in violation of California Health and  
8 Safety Code section 25249.6. Soulful Nutrition denies all material allegations contained in the  
9 Notices and Complaint.

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

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

20 **1.9** The Effective Date of this Consent Judgment is the date on which it is entered  
21 as a Judgment by this Court.

## 22 **2. JURISDICTION AND VENUE**

23 For purposes of this Consent Judgment and any further court action that may become  
24 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter  
25 jurisdiction over the allegations of violations contained in the Complaint and personal jurisdiction  
26 over Soulful Nutrition as to the acts alleged in the Complaint, that venue is proper in Alameda  
27 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
28 resolution of all claims up through and including the Compliance Date, , as defined in Section 3.1,

1 below, that were or could have been asserted in this action based on the facts alleged in the  
2 Notices and Complaint.

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

4 **3.1** Beginning sixty (60) days after the Effective Date (the “Compliance Date”),  
5 Soulful Nutrition shall be permanently enjoined from manufacturing for sale in the State of  
6 California, “Distributing into the State of California,” or directly selling in the State of  
7 California, any Covered Product that exposes a person to a “Daily Lead Exposure Level” of  
8 more than 0.5 micrograms of lead per day and/or “Daily Mercury Exposure Level” of more  
9 than 0.3 micrograms of mercury per day unless it meets the warning requirements under  
10 Section 3.2.

11 **3.1.1** As used in this Consent Judgment, the term “Distributing into the State  
12 of California” shall mean to directly ship a Covered Product into California for sale in  
13 California or to sell a Covered Product to a distributor that Soulful Nutrition knows or has  
14 reason to know will sell the Covered Product in California.

15 **3.1.2** For purposes of this Consent Judgment, the “Daily Lead Exposure  
16 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
17 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
18 product (using the largest serving size appearing on the product label), multiplied by servings  
19 of the product per day (using the largest number of recommended daily servings appearing on  
20 the label), which equals micrograms of lead exposure per day, excluding, pursuant to Section  
21 3.1.4, amounts of allowances of lead in the ingredients listed in **Table 1** below. If the label  
22 contains no recommended daily servings, then the number of recommended daily servings  
23 shall be one.

24 **3.1.3** For purposes of this Consent Judgment, the “Daily Mercury Exposure  
25 Level” shall be measured in micrograms, and shall be calculated using the following formula:  
26 micrograms of mercury per gram of product, multiplied by grams of product per serving of the  
27 product (using the largest serving size appearing on the product label), multiplied by servings  
28 of the product per day (using the largest number of recommended daily servings appearing on

1 the label), which equals micrograms of mercury exposure per day. If the label contains no  
2 recommended daily servings, then the number of recommended daily servings shall be one.

3           **3.1.4** In calculating the Daily Lead Exposure Level for a Covered Product,  
4 Soulful Nutrition shall be allowed to deduct the amount of lead which is deemed “naturally  
5 occurring” in the ingredients listed in **Table 1** that are contained in that Covered Product under  
6 the following conditions: For each year that Soulful Nutrition claims entitlement to a “naturally  
7 occurring” allowance, Soulful Nutrition shall provide ERC with the following information: (a)  
8 Soulful Nutrition must produce to ERC a written list of each ingredient in the Covered Product,  
9 and the amount, measured in grams, of each such ingredient contained therein for which a  
10 “naturally occurring” allowance is claimed; (b) Soulful Nutrition must provide ERC with  
11 documentation of laboratory testing, conducted during the year for which the “naturally  
12 occurring” allowance is claimed, that complies with Sections 3.4.3 through 3.4.4 and that shows  
13 the amount of lead, if any, contained in each ingredient listed in **Table 1** that is contained in the  
14 Covered Product and for which Soulful Nutrition intends to deduct “naturally occurring” lead; (c)  
15 if the laboratory testing reveals the presence of lead in any of the ingredients listed in **Table 1** that  
16 are contained in the Covered Product, Soulful Nutrition shall be entitled to deduct the amount of  
17 lead contained in each such ingredient, up to the full amount of the allowance as shown in **Table**  
18 **1** but not to exceed the total amount of lead actually contained in that ingredient in the Covered  
19 Product; and (d) if the Covered Product does not contain any of the ingredients listed in **Table 1**,  
20 Soulful Nutrition shall not be entitled to a deduction for “naturally occurring” lead in the Covered  
21 Product. The information required by Sections 3.1.4(a) and (b) shall be provided to ERC within  
22 thirty (30) days of the anniversary of the Effective Date and annually thereafter for each year that  
23 Soulful Nutrition shall claim entitlement to the “naturally occurring” allowance. ERC shall keep  
24 the information provided by Soulful Nutrition under Section 3.1.4(a) strictly confidential as the  
25 specifications and recipes for the Covered Products, including quantities of ingredients, are  
26 proprietary trade secrets.

27 ///

28 ///

1 **TABLE 1**

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INGREDIENT	ALLOWANCES OF AMOUNT OF LEAD
Cocoa Powder	Up to .225 microgram/gram
Chocolate Liquor	Up to .225 microgram/gram
Cocoa Butter	Up to 0.1 micrograms/gram
Calcium (elemental)	Up to 0.8 micrograms/gram
Ferrous Fumarate	Up to 0.4 micrograms/gram
Zinc Oxide	Up to 8.0 micrograms/gram
Magnesium Oxide	Up to 0.4 micrograms/gram
Magnesium Carbonate	Up to 0.332 micrograms/gram
Magnesium Hydroxide	Up to 0.4 micrograms/gram
Zinc Gluconate	Up to 0.8 micrograms/gram
Potassium Chloride	Up to 1.1 micrograms/gram

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16 **3.2 Clear and Reasonable Warnings**

17 If Soulful Nutrition is required to provide a warning pursuant to Section 3.1, the following  
18 warning must be utilized (“Warning”):

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

22 Soulful Nutrition shall use the phrase “cancer and” in the Warning if Soulful Nutrition has  
23 reason to believe that the “Daily Lead Exposure Level” is greater than 15 micrograms of lead as  
24 determined pursuant to the quality control methodology set forth in Section 3.4 or if Soulful  
25 Nutrition has reason to believe that another Proposition 65 chemical is present which may require  
26 a cancer warning. As identified in the brackets, the warning shall appropriately reflect whether  
27 there is lead, mercury, or multiple chemicals present in each of the Covered Products.

28 The Warning shall be securely affixed to or printed upon the label of each Covered

1 Product and it must be set off from other surrounding information and enclosed in a box. In  
2 addition, for any Covered Product sold over the internet, the Warning shall appear on the  
3 checkout page when a California delivery address is indicated for any purchase of any Covered  
4 Product. An asterisk or other identifying method must be utilized to identify which products on  
5 the checkout page are subject to the Warning. In no event shall any internet or website  
6 Warning be contained in or made through a link.

7 The Warning shall be at least the same size as the largest of any other health or safety  
8 warnings also appearing on the website or on the label and the word “**WARNING**” shall be in all  
9 capital letters and in bold print. No statements intended to or likely to have the effect of  
10 diminishing the impact of the Warning on the average lay person shall accompany the Warning.  
11 Further no statements may accompany the Warning that state or imply that the source of the listed  
12 chemical has an impact on or results in a less harmful effect of the listed chemical.

13 Soulful Nutrition must display the above Warning with such conspicuousness, as  
14 compared with other words, statements or designs on the label, or on its website, if applicable, to  
15 render the Warning likely to be read and understood by an ordinary individual under customary  
16 conditions of purchase or use of the product.

17 For purposes of this Consent Judgment, the term “label” means a display of written,  
18 printed or graphic material that is printed on or affixed to a Covered Product or its immediate  
19 container or wrapper.

### 20 **3.3 Conforming Covered Products**

21 A Conforming Covered Product is a Covered Product for which the “Daily Lead Exposure  
22 Level” is no greater than 0.5 micrograms of lead per day and/or the “Daily Mercury Exposure  
23 Level” is no greater than 0.3 micrograms of mercury per day as determined by the exposure  
24 methodology set forth in Section 3.1.2 and the quality control methodology described in Section  
25 3.4, and that is not known by Soulful Nutrition to contain other chemicals that violate Proposition  
26 65’s safe harbor thresholds.

### 27 **3.4 Testing and Quality Control Methodology**

28 **3.4.1** Beginning within one year of the Effective Date, Soulful Nutrition shall

1 arrange for lead and mercury testing of the Covered Products at least once a year for a  
2 minimum of three consecutive years by arranging for testing of three (3) randomly selected  
3 samples of each of the Covered Products, in the form intended for sale to the end-user, which  
4 Soulful Nutrition intends to sell or is manufacturing for sale in California, directly selling to a  
5 consumer in California or “Distributing into the State of California.” If tests conducted  
6 pursuant to this Section demonstrate that no Warning is required for a Covered Product during  
7 each of three consecutive years, then the testing requirements of this Section will no longer be  
8 required as to that Covered Product. However, if during the three-year testing period, Soulful  
9 Nutrition changes ingredient suppliers for any of the Covered Products and/or reformulates any  
10 of the Covered Products, Soulful Nutrition shall test that Covered Product annually for at least  
11 three (3) consecutive years after such change is made.

12           **3.4.2** For purposes of measuring the “Daily Lead Exposure Level” and/or the  
13 “Daily Mercury Exposure Level,” the highest lead and/or mercury detection result of the three  
14 (3) randomly selected samples of the Covered Products will be controlling.

15           **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a  
16 laboratory method that complies with the performance and quality control factors appropriate  
17 for the method used, including limit of detection and limit of quantification, sensitivity,  
18 accuracy and precision that meets the following criteria: Inductively Coupled Plasma-Mass  
19 Spectrometry (“ICP-MS”) achieving a limit of quantification of less than or equal to 0.005  
20 mg/kg.

21           **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an  
22 independent third party laboratory certified by the California Environmental Laboratory  
23 Accreditation Program or an independent third-party laboratory that is registered with the  
24 United States Food & Drug Administration.

25           **3.4.5** Nothing in this Consent Judgment shall limit Soulful Nutrition’s ability  
26 to conduct, or require that others conduct, additional testing of the Covered Products, including  
27 the raw materials used in their manufacture.

28           **3.4.6** Within thirty (30) days of ERC’s written request, Soulful Nutrition shall



1 deliver lab reports obtained pursuant to Section 3.4 to ERC. Soulful Nutrition shall retain all  
2 test results and documentation for a period of five years from the date of each test.

3 **4. SETTLEMENT PAYMENT**

4 **4.1** In full satisfaction of all potential civil penalties, additional settlement payments,  
5 attorney’s fees, and costs, Soulful Nutrition shall make a total payment of \$200,000.00 (“Total  
6 Settlement Amount”) to ERC in four periodic payments (the “Periodic Payments”) according to  
7 the following payment schedule (“Due Dates”):

- 8 • Payment 1 -- \$50,000.00 within 5 days of the Effective Date.
- 9 • Payment 2 -- \$50,000.00 within 35 days of the Effective Date
- 10 • Payment 3 -- \$50,000.00 within 65 days of the Effective Date
- 11 • Payment 4 -- \$50,000.00 within 95 days of the Effective Date

12 Soulful Nutrition shall make these payments by wire transfer to ERC’s account, for  
13 which ERC will give Soulful Nutrition the necessary account information. The Total  
14 Settlement Amount shall be apportioned as follows:

15 **4.2** \$82,525.00 shall be considered a civil penalty pursuant to California Health and  
16 Safety Code section 25249.7(b)(1). ERC shall remit 75% (\$61,893.75) of the civil penalty to  
17 the Office of Environmental Health Hazard Assessment (“OEHHA”) for deposit in the Safe  
18 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
19 Code section 25249.12(c). ERC will retain the remaining 25% (\$20,631.25) of the civil  
20 penalty.

21 **4.3** \$3,124.62 shall be distributed to ERC as reimbursement to ERC for reasonable  
22 costs incurred in bringing this action.

23 **4.4** \$61,853.59 shall be distributed to ERC as an Additional Settlement Payment  
24 (“ASP”), pursuant to California Code of Regulations, title 11, sections 3203, subdivision (d)  
25 and 3204. ERC will utilize the ASP for activities that address the same public harm as  
26 allegedly caused by Defendant in this matter. These activities are detailed below and support  
27 ERC’s overarching goal of reducing and/or eliminating hazardous and toxic chemicals in  
28 dietary supplement products in California. ERC’s activities have had, and will continue to

1 have, a direct and primary effect within the State of California because California consumers  
2 will be benefitted by the reduction and/or elimination of exposure to lead and/or mercury in  
3 dietary supplements and/or by providing clear and reasonable warnings to California  
4 consumers prior to ingestion of the products.

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

25         ERC shall be fully accountable in that it will maintain adequate records to document  
26 and will be able to demonstrate how the ASP funds will be spent and can assure that the funds  
27 are being spent only for the proper, designated purposes described in this Consent Judgment.  
28 ERC shall provide the Attorney General, within thirty days of any request, copies of

1 documentation demonstrating how such funds have been spent.

2           **4.5**     \$20,902.50 shall be distributed to Adams Broadwell Joseph & Cardozo as  
3 reimbursement of ERC’s attorney fees, while \$31,594.29 shall be distributed to ERC for its in-  
4 house legal fees. Except as explicitly provided herein, each Party shall bear its own fees and  
5 costs.

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

16     **5.    MODIFICATION OF CONSENT JUDGMENT**

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

21           **5.2**     If Soulful Nutrition seeks to modify this Consent Judgment under Section 5.1,  
22 then Soulful Nutrition must provide written notice to ERC of its intent (“Notice of Intent”). If  
23 ERC seeks to meet and confer regarding the proposed modification in the Notice of Intent, then  
24 ERC must provide written notice to Soulful Nutrition within thirty (30) days of receiving the  
25 Notice of Intent. If ERC notifies Soulful Nutrition in a timely manner of ERC’s intent to meet  
26 and confer, then the Parties shall meet and confer in good faith as required in this Section. The  
27 Parties shall meet in person or via telephone within thirty (30) days of ERC’s notification of its  
28 intent to meet and confer. Within thirty (30) days of such meeting, if ERC disputes the

1 proposed modification, ERC shall provide to Soulful Nutrition a written basis for its position.  
2 The Parties shall continue to meet and confer for an additional thirty (30) days in an effort to  
3 resolve any remaining disputes. Should it become necessary, the Parties may agree in writing  
4 to different deadlines for the meet-and-confer period.

5 **5.3** In the event that Soulful Nutrition initiates or otherwise requests a modification  
6 under Section 5.1, and the meet and confer process leads to a joint motion or application for a  
7 modification of the Consent Judgment, Soulful Nutrition shall reimburse ERC its reasonable  
8 costs and reasonable attorney's fees.

9 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
10 **JUDGMENT**

11 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify, or  
12 terminate this Consent Judgment.

13 **6.2** If ERC alleges that any Covered Product fails to qualify as a Conforming  
14 Covered Product (for which ERC alleges that no Warning has been provided), then ERC shall  
15 inform Soulful Nutrition in a reasonably prompt manner of its test results, including  
16 information sufficient to permit Soulful Nutrition to identify the Covered Products at issue.  
17 Soulful Nutrition shall, within forty-five (45) days following such notice, provide ERC with  
18 testing information, from an independent third-party laboratory meeting the requirements of  
19 Sections 3.4.3 and 3.4.4, demonstrating Soulful Nutrition's compliance with the Consent  
20 Judgment. The Parties shall first attempt to resolve the matter prior to ERC taking any further  
21 legal action.

22 **7. APPLICATION OF CONSENT JUDGMENT**

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

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

2             **8.1**             This Consent Judgment is a full, final, and binding resolution between ERC,  
3 on behalf of itself and in the public interest, and Soulful Nutrition and its respective officers,  
4 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, suppliers,  
5 franchisees, licensees, customers (not including private label customers of Soulful Nutrition),  
6 distributors, wholesalers, retailers, and all other upstream and downstream entities in the  
7 distribution chain of any Covered Product, and the predecessors, successors, and assigns of any  
8 of them (collectively, "Released Parties").

9             **8.2**             ERC, acting in the public interest, releases the Released Parties from any  
10 and all claims for violations of Proposition 65 up through the Compliance Date based on  
11 exposure to lead and/or mercury from the Covered Products as set forth in the Notices of  
12 Violation. ERC, on behalf of itself only, hereby fully releases and discharges the Released  
13 Parties from any and all claims, actions, causes of action, suits, demands, liabilities, damages,  
14 penalties, fees, costs, and expenses asserted, or that could have been asserted from the  
15 handling, use, or consumption of the Covered Products, as to any alleged violation of  
16 Proposition 65 or its implementing regulations arising from the failure to provide Proposition  
17 65 warnings on the Covered Products regarding lead and/or mercury up to and including the  
18 Compliance Date.

19             **8.3**             ERC on its own behalf only, and Soulful Nutrition on its own behalf only,  
20 further waive and release any and all claims they may have against each other for all actions or  
21 statements made or undertaken in the course of seeking or opposing enforcement of  
22 Proposition 65 in connection with the Notices and Complaint up through and including the  
23 Compliance Date, provided, however, that nothing in Section 8 shall affect or limit any Party's  
24 right to seek to enforce the terms of this Consent Judgment.

25             **8.4**             It is possible that other claims not known to the Parties, arising out of the facts  
26 alleged in the Notices and Complaint, and relating to the Covered Products, will develop or be  
27 discovered. ERC on behalf of itself only, and Soulful Nutrition on behalf of itself only,  
28 acknowledge that this Consent Judgment is expressly intended to cover and include all such

1 claims up through and including the Compliance Date, including all rights of action therefore.  
2 ERC and Soulful Nutrition acknowledge that the claims released in Sections 8.2 and 8.3 above  
3 may include unknown claims, and nevertheless waive California Civil Code section 1542 as to  
4 any such unknown claims. California Civil Code section 1542 reads as follows:

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

11 ERC on behalf of itself only, and Soulful Nutrition on behalf of itself only, acknowledge and  
12 understand the significance and consequences of this specific waiver of California Civil Code  
13 section 1542.

14 **8.5** Compliance with the terms of this Consent Judgment shall be deemed to  
15 constitute compliance with Proposition 65 by any of the Released Parties regarding alleged  
16 exposures to lead and/or mercury in the Covered Products as set forth in the Notices and  
17 Complaint.

18 **8.6** Nothing in this Consent Judgment is intended to apply to any occupational or  
19 environmental exposures arising under Proposition 65, nor shall it apply to any of Soulful  
20 Nutrition's products other than the Covered Products.

## 21 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

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

## 25 **10. GOVERNING LAW**

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

## 28 **11. PROVISION OF NOTICE**

All notices required to be given to either Party to this Consent Judgment by the other shall  
be in writing and sent to the following agents listed below via first-class mail or via electronic

1 mail where required. Courtesy copies via email may also be sent.

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

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

8 With a copy to:

9 CHRISTINA M. CARO  
10 ADAMS BROADWELL JOSEPH & CARDOZO  
11 601 Gateway Blvd., Suite 1000  
12 South San Francisco, CA 94080-7037  
13 Telephone: (650) 589-1660  
14 Email: ccaro@adamsbroadwell.com

15 **SOULFUL NUTRITION, INC., individually and dba REMEDY ORGANICS:**

16 Henry Kasindorf  
17 Co-Founder and CEO  
18 Remedy Organics  
19 P.O. Box 1262  
20 Englewood Cliffs, NJ 07632  
21 Telephone: (917)359-1288  
22 Email: henry@remedyorganics.com

23 With a copy to:

24 JAMES A. GEOCARIS  
25 LEWIS BRISBOIS BISGAARD & SMITH LLP  
26 650 Town Center Drive, Suite 1400  
27 Costa Mesa, CA 92626  
28 Telephone: (714) 966-3129  
Email: james.geocaris@lewisbrisbois.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, the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible prior to the hearing on the motion.

1           **12.3** If this Stipulated Consent Judgment is not approved by the Court, it shall be  
2 void and have no force or effect.

3           **13. EXECUTION AND COUNTERPARTS**

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

7           **14. DRAFTING**

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

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

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

21           **16. ENFORCEMENT**

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



1 provided by law for failure to comply with Proposition 65 or other laws.

2 **17. ENTIRE AGREEMENT, AUTHORIZATION**

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

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

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

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

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

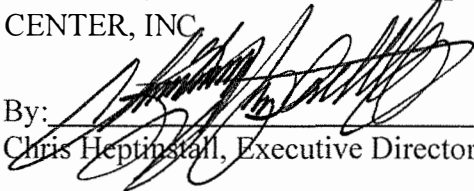
19 (2) Make the findings pursuant to California Health and Safety Code section  
20 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

21 (3) Retain jurisdiction, pursuant to Section 664.6 of the Code of Civil Procedure, after  
22 the Consent Judgment is entered in order to enforce, modify, or terminate this Consent Judgment.

23 **IT IS SO STIPULATED:**

24  
25 Dated: 5/18/, 2023

ENVIRONMENTAL RESEARCH  
CENTER, INC

26  
27 By:   
28 Chris Heptinstall, Executive Director

1 Dated: May 16, 2023

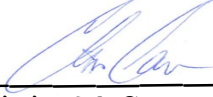
SOULFUL NUTRITION, INC.,  
individually and dba REMEDY  
ORGANICS

2  
3  
4  
5 By:   
6 Its: Henry Kasindorf  
CEO

7 APPROVED AS TO FORM:

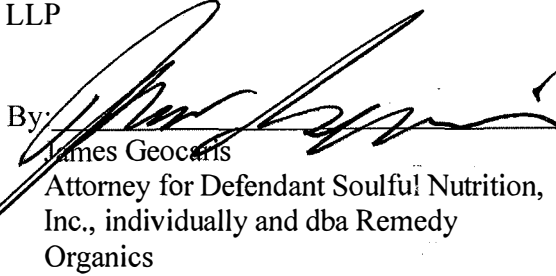
8  
9 Dated: May 18, 2023, 2023

ADAMS BROADWELL JOSEPH &  
CARDOZO

10  
11 By:   
12 Christina M. Caro  
13 Attorney for Plaintiff Environmental  
14 Research Center, Inc.

15 Dated: May 17, 2023

LEWIS BRISBOIS BISGAARD & SMITH  
LLP

16  
17 By:   
18 James Geocaris  
19 Attorney for Defendant Soulful Nutrition,  
20 Inc., individually and dba Remedy  
21 Organics  
22  
23  
24  
25  
26  
27  
28

**ORDER AND JUDGMENT**

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

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: \_\_\_\_\_, 2023 \_\_\_\_\_

Judge of the Superior Court

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28

# **EXHIBIT A**

# ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

## ATTORNEYS AT LAW

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ccaro@adamsbroadwell.com

SACRAMENTO OFFICE

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SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201  
FAX: (916) 444-6209

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CHRISTINA M. CARO  
THOMAS A. ENSLOW  
KELILAH D. FEDERMAN  
RICHARD M. FRANCO  
ANDREW J. GRAF  
TANYA A. GULESSERIAN  
DARIEN K. KEY  
RACHAEL E. KOSS  
AIDAN P. MARSHALL  
TARA C. RENGIFO

*Of Counsel*

MARC D. JOSEPH  
DANIEL L. CARDOZO

*\*Not admitted in California.  
Licensed in Colorado.*

October 6, 2022

### VIA CERTIFIED MAIL

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and dba  
Remedy Organics  
PO Box 1262  
Englewood Cliffs, NJ 07632

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and dba  
Remedy Organics  
65 Woodbine St  
Bergenfield, NJ 07621

The Corporation Trust Company  
(Registered Agent for Soulful  
Nutrition, Inc., individually and  
dba Remedy Organics)  
1209 N. Orange St.  
Wilmington, DE 19801

### VIA ONLINE SUBMISSION

Office of the California Attorney General

### VIA ELECTRONIC MAIL

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

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Page 2

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

October 6, 2022

Page 3

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301 Second Street  
Woodland, CA 95695  
cfepd@yolocounty.org

**VIA FIRST CLASS MAIL**

District Attorneys of Select California Counties  
and Select City Attorneys  
(See Attached Certificate of Service)

**Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.***

Dear Addressees:

I represent the Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

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

**Soulful Nutrition, Inc., individually and dba Remedy Organics**

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Remedy Organics Super Chai Fuel 12g Protein - Lead, Mercury**
- 2. Remedy Organics Cacao Essentials 16g Protein - Lead, Mercury**
- 3. Remedy Organics Vanilla Essentials 12g Protein – 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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead and/or mercury. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The primary route of exposure to lead and/or mercury has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or mercury. The method of warning should be a warning that appears on the product’s label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead and/or mercury. Each of these ongoing violations has occurred on every day since October 6, 2019, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the



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

October 6, 2022

Page 5

identified chemical; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time-consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



---

Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Soulful Nutrition, Inc., individually and dba Remedy Organics and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Soulful Nutrition, Inc., individually and dba Remedy Organics**

I, Christina Caro, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am 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 Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 6, 2022



---

Christina M. Caro

**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 October 6, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
PO Box 1262  
Englewood Cliffs, NJ 07632

The Corporation Trust Company  
(Registered Agent for Soulful  
Nutrition, Inc., individually and  
dba Remedy Organics)  
1209 N. Orange St.  
Wilmington, DE 19801

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
65 Woodbine St  
Bergenfield, NJ 07621

On October 6, 2022, 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 October 6, 2022, 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  
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

October 6, 2022

Page 8

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

October 6, 2022

Page 9

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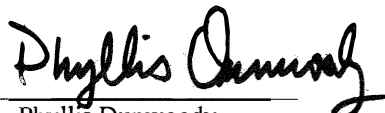
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San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

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

On October 6, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.;** **CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on October 6, 2022, in Fort Oglethorpe, Georgia.

  
Phyllis Dunwoody

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

October 6, 2022

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**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  
310 6<sup>th</sup> St  
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, Glenn County  
Post Office Box 430  
Willows, CA 95988

District Attorney, Humboldt County  
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Eureka, CA 95501

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

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, San Benito County  
419 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

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

District Attorney, San Mateo County  
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Redwood City, CA 94063

District Attorney, Shasta County  
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Redding, CA 96001

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Post Office Box 986  
Yreka, CA 96097

District Attorney, Solano County  
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Fairfield, CA 94533

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95354

District Attorney, Sutter County  
463 2<sup>nd</sup> 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

## 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.<sup>1</sup> 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

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<sup>1</sup> 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](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 contaminant<sup>2</sup> 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.

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<sup>2</sup> 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](mailto: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 B**

# ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

## ATTORNEYS AT LAW

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ccaro@adamsbroadwell.com

SACRAMENTO OFFICE

520 CAPITOL MALL, SUITE 350  
SACRAMENTO, CA 95814-4721

TEL: (916) 444-6201  
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DARIEN K. KEY  
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TARA C. RENGIFO

*Of Counsel*

MARC D. JOSEPH  
DANIEL L. CARDOZO

*\*Not admitted in California.  
Licensed in Colorado.*

October 18, 2022

### VIA CERTIFIED MAIL

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Soulful Nutrition, Inc., individually and dba  
Remedy Organics  
PO Box 1262  
Englewood Cliffs, NJ 07632

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and dba  
Remedy Organics  
65 Woodbine St  
Bergenfield, NJ 07621

The Corporation Trust Company  
(Registered Agent for Soulful  
Nutrition, Inc., individually and  
dba Remedy Organics)  
1209 N. Orange St.  
Wilmington, DE 19801

### VIA ONLINE SUBMISSION

Office of the California Attorney General

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

October 18, 2022

Page 2

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

October 18, 2022

Page 3

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

**VIA FIRST CLASS MAIL**

District Attorneys of Select California Counties  
and Select City Attorneys  
(See Attached Certificate of Service)

**Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.***

Dear Addressees:

I represent the Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

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

**Soulful Nutrition, Inc., individually and dba Remedy Organics**

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Remedy Organics Golden Mind 10g Protein - Lead**
- 2. Remedy Organics Blue Oxidants 8g Protein – Lead, Mercury**
- 3. Remedy Organics Berry Immunity 10g Protein - Lead**
- 4. Remedy Organics Chocolate Keto 16g Protein – 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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead and/or mercury. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The primary route of exposure to lead and/or mercury has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or mercury. The method of warning should be a warning that appears on the product’s label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead and/or mercury. Each of these ongoing violations has occurred on every day since October 18, 2019, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable



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

October 18, 2022

Page 5

written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time-consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



---

Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Soulful Nutrition, Inc., individually and dba Remedy Organics and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Soulful Nutrition, Inc., individually and dba Remedy Organics**

I, Christina Caro, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am 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 Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 18, 2022



---

Christina M. Caro

**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 October 18, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
PO Box 1262  
Englewood Cliffs, NJ 07632

The Corporation Trust Company  
(Registered Agent for Soulful  
Nutrition, Inc., individually and  
dba Remedy Organics)  
1209 N. Orange St.  
Wilmington, DE 19801

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
65 Woodbine St  
Bergenfield, NJ 07621

On October 18, 2022, 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 October 18, 2022, 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  
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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

October 18, 2022

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Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
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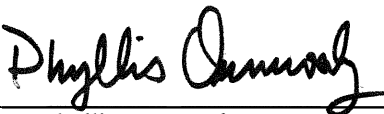
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On October 18, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on October 18, 2022, in Fort Oglethorpe, Georgia.

  
\_\_\_\_\_  
Phyllis Dunwoody

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

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## 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.<sup>1</sup> 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

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<sup>1</sup> 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](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 contaminant<sup>2</sup> 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.

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<sup>2</sup> 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](mailto: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 C**

# ADAMS BROADWELL JOSEPH & CARDOZO

A PROFESSIONAL CORPORATION

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October 28, 2022

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Office of the California Attorney General

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

October 28, 2022

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

October 28, 2022

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**VIA FIRST CLASS MAIL**

District Attorneys of Select California Counties  
and Select City Attorneys  
(See Attached Certificate of Service)

**Re: Notice of Violations of California Health & Safety Code Section 25249.5 *et seq.***

Dear Addressees:

I represent the Environmental Research Center, Inc. (“ERC”) in connection with this Notice of Violations of California’s Safe Drinking Water and Toxic Enforcement Act of 1986, which is codified at California Health & Safety Code Section 25249.5 *et seq.* and also referred to as Proposition 65.

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.

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

**Soulful Nutrition, Inc., individually and dba Remedy Organics**

The products that are the subject of this notice and the chemical in those products identified as exceeding allowable levels are:

- 1. Remedy Organics Cold Brew Keto 16g Protein – Lead, Mercury**
- 2. Remedy Organics Vanilla Keto 16g Protein – Lead, Mercury**
- 3. Remedy Organics Energize Me Immunity+Energy - Lead, Mercury**
- 4. Remedy Organics Protect Me Immunity+Defense - Mercury**

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.

On July 1, 1990, the State of California officially listed mercury and mercury compounds as chemicals known to cause developmental toxicity and male and female reproductive toxicity.

This letter is a notice to the Violator and the appropriate governmental authorities of the Proposition 65 violations concerning the listed products. This notice covers all violations of Proposition 65 involving the Violator currently known to ERC from the information now available. ERC may continue to investigate other products that may reveal further violations. A summary of Proposition 65, prepared by the Office of Environmental Health Hazard Assessment, is enclosed with the copy of this letter to the Violator.

The Violator has manufactured, marketed, distributed, and/or sold the listed products, which have exposed and continue to expose numerous individuals within California to the identified chemical, lead and/or mercury. The consumer exposures that are the subject of this notice result from the recommended use of these products by consumers. The primary route of exposure to lead and/or mercury has been through ingestion. Proposition 65 requires that a clear and reasonable warning be provided prior to exposure to lead and/or mercury. The method of warning should be a warning that appears on the product’s label. The Violator violated Proposition 65 because it failed to provide an appropriate warning to persons ingesting these products that they are being exposed to lead and/or mercury. Each of these ongoing violations has occurred on every day since October 28, 2019, as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users.

Pursuant to Section 25249.7(d) of the statute, ERC intends to file a citizen enforcement action sixty days after effective service of this notice unless the Violator agrees in an enforceable



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

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written instrument to: (1) reformulate the listed products so as to eliminate further exposures to the identified chemical; (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. Consistent with the public interest goals of Proposition 65 and my client's objectives in pursuing this notice, ERC is interested in seeking a constructive resolution to this matter. Such resolution will avoid both further unwarned consumer exposures to the identified chemical and expensive and time-consuming litigation.

ERC's Executive Director is Chris Heptinstall, and is located at 3111 Camino Del Rio North, Suite 400, San Diego, CA 92108; Tel. 619-500-3090. ERC has retained me in connection with this matter. We suggest that communications regarding this Notice of Violations should be directed to my attention at the above listed law office address and telephone number.

Sincerely,



---

Christina M. Caro

Attachments

Certificate of Merit

Certificate of Service

OEHHA Summary (to Soulful Nutrition, Inc., individually and dba Remedy Organics and its Registered Agent for Service of Process only)

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

**CERTIFICATE OF MERIT**

**Re: Environmental Research Center, Inc.’s Notice of Proposition 65 Violations by Soulful Nutrition, Inc., individually and dba Remedy Organics**

I, Christina Caro, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party identified in the notice violated California Health & Safety Code Section 25249.6 by failing to provide clear and reasonable warnings.
2. I am 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 Violator will be able to establish any of the affirmative defenses set forth in the statute.
5. Along with the copy of this Certificate of Merit served on the Attorney General is attached additional factual information sufficient to establish the basis for this certificate, including the information identified in California Health & Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: October 28, 2022



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Christina M. Caro

**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 October 28, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS OF CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; “THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986 (PROPOSITION 65): A SUMMARY”** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties listed below and depositing it in a U.S. Postal Service Office with the postage fully prepaid for delivery by Certified Mail:

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
PO Box 1262  
Englewood Cliffs, NJ 07632

The Corporation Trust Company  
(Registered Agent for Soulful  
Nutrition, Inc., individually and  
dba Remedy Organics)  
1209 N. Orange St.  
Wilmington, DE 19801

Henry Kasindorf or Current CEO  
Soulful Nutrition, Inc., individually and  
dba Remedy Organics  
65 Woodbine St  
Bergenfield, NJ 07621

On October 28, 2022, 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 October 28, 2022, 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

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

October 28, 2022

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

Lisa A. Smittcamp, District Attorney  
Fresno County  
2100 Tulare Street  
Fresno, CA 93721  
consumerprotection@fresnocountyca.gov

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

Walter W. Wall, District Attorney  
Mariposa County  
P.O. Box 730  
Mariposa, CA 95338  
mcda@mariposacounty.org

Kimberly Lewis, District Attorney  
Merced County  
550 West Main St  
Merced, CA 95340  
Prop65@countyofmerced.com

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

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

Clifford H. Newell, District Attorney  
Nevada County  
201 Commercial St  
Nevada City, CA 95959  
DA.Prop65@co.nevada.ca.us

Todd Spitzer, District Attorney  
Orange County  
300 N Flower St  
Santa Ana, CA 92703  
Prop65notice@da.ocgov.com

Morgan Briggs Gire, District Attorney  
Placer County  
10810 Justice Center Drive  
Roseville, CA 95678  
Prop65@placer.ca.gov

David Hollister, District Attorney  
Plumas County  
520 Main St  
Quincy, CA 95971  
davidhollister@countyofplumas.com

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

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330 West Broadway  
San Diego, CA 92101  
SanDiegoDAProp65@sdcda.org

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

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

Alexandra Grayner, Assistant District Attorney  
San Francisco District Attorney's Office  
350 Rhode Island Street  
San Francisco, CA 94103  
Alexandra.grayner@sfgov.org

Notice of Violations of California Health & Safety Code §25249.5 *et seq.*  
October 28, 2022  
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Tori Verber Salazar, District Attorney  
San Joaquin County  
222 E. Weber Avenue, Room 202  
Stockton, CA 95202  
DAConsumer.Environmental@sjcda.org

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

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

Jill Ravitch, District Attorney  
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Sonoma, CA 95403  
Jeannie.Barnes@sonoma-county.org

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

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

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

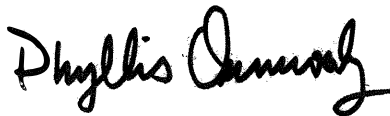
Gregory D. Totten, District Attorney  
Ventura County  
800 S Victoria Ave  
Ventura, CA 93009  
daspecialops@ventura.org

Nora V. Frimann, City Attorney  
San Jose City Attorney  
200 E. Santa Clara Street, 16<sup>th</sup> Floor  
San Jose, CA 96113  
Proposition65notices@sanjoseca.gov

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

On October 28, 2022, between 8:00 a.m. and 5:00 p.m. Eastern Time, I served the following documents: **NOTICE OF VIOLATIONS, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT** on each of the parties on the Service List attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties **on the Service List attached hereto**, and depositing it with the U.S. Postal Service with the postage fully prepaid for delivery by First Class Mail.

Executed on October 28, 2022, in Fort Oglethorpe, Georgia.



---

Phyllis Dunwoody

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

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**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  
310 6<sup>th</sup> St  
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, Glenn County  
Post Office Box 430  
Willows, CA 95988

District Attorney, Humboldt County  
825 5th Street 4<sup>th</sup> 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

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Ukiah, CA 95482

District Attorney, Modoc County  
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Alturas, CA 96101-4020

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San Bernardino, CA 92415

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

District Attorney, Shasta County  
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Redding, CA 96001

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Downieville, CA 95936

District Attorney, Siskiyou County  
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Yreka, CA 96097

District Attorney, Solano County  
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Fairfield, CA 94533

District Attorney, Stanislaus County  
832 12<sup>th</sup> Street, Ste 300  
Modesto, CA 95354

District Attorney, Sutter County  
463 2<sup>nd</sup> 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