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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
12 FRESNO DIVISION

13
14 **THE PEOPLE OF THE STATE OF**
15 **CALIFORNIA,**

16 Plaintiff,

17 v.

18 **EJUICESTEALS.COM, REMON HANNA**
19 **in his official capacity as Chief Executive**
20 **Officer, Chief Financial Officer,**

21 Defendants.
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**COMPLAINT FOR DAMAGES, CIVIL
PENALTIES, INJUNCTIVE AND
EQUITABLE RELIEF**

1 COMES NOW the Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, by and
2 through its Attorney General, Rob Bonta, and for its claims against Defendants, states and
3 alleges, on knowledge as to its own actions, and otherwise upon information and belief, as
4 follows:

5 **PRELIMINARY STATEMENT**

6 1. Plaintiff, the People of the State of California, by and through its Attorney General,
7 Rob Bonta, brings this action to enjoin and prevent the acts and omissions of Defendants
8 constituting violations of federal and state laws regulating the movement, possession, transfer,
9 distribution, offers for sale, sale, and delivery of tobacco products in California, including
10 violations of the Prevent All Cigarette Trafficking Act of 2009, 15 U.S.C. §§ 375–378 and 18
11 U.S.C. § 1716E; delivery sales provisions of the California Cigarette and Tobacco Products Tax
12 Law, Cal. Rev. & Tax. Code § 30101.7; the California Stop Tobacco Access to Kids Enforcement
13 Act, Cal. Bus. & Prof. Code §§ 22950-22964; and California Unfair Competition Law, Cal. Bus.
14 & Prof. Code, § 17200 *et seq.*

15 2. The People of the State of California respectfully request that this Court use its
16 equitable and legal authority to permanently enjoin these unlawful acts and practices, to impose
17 applicable civil penalties against each Defendant accountable for its unlawful conduct, and to
18 award damages, costs, and other appropriate relief as provided by law.

19 **JURISDICTION**

20 3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
21 § 1331, in that this is a civil action involving questions of federal law, including the Prevent All
22 Cigarette Trafficking Act of 2009, 15 U.S.C. §§ 375–378 and 18 U.S.C. § 1716E.

23 4. This Court also has subject matter jurisdiction pursuant to 15 U.S.C. § 378(a), 18
24 U.S.C. § 1716E(h), and 28 U.S.C. § 1339.

25 5. This Court has jurisdiction over corporate Defendant Ejuicesteals.com because it is
26 incorporated in California and has its principal place of business in California. Defendant
27 Ejuicesteals.com intentionally avails itself to the California market so as to render the exercise of
28 jurisdiction over it by the California courts consistent with traditional notions of fair play and

1 substantial justice. Defendant Remon Hanna is an officer and director of corporate Defendant
2 Ejuicesteals.com and resides in California; therefore, he is subject to the jurisdiction of this Court.

3 6. This Court has supplemental jurisdiction over the related state law claims pursuant to
4 28 U.S.C. § 1367(a) because those claims form part of the same case or controversy and share all
5 common operative facts and parties with the federal law claims. Resolving Plaintiff's federal and
6 state claims in a single action serves the interests of judicial economy, convenience, consistency,
7 and fairness to the parties.

8 **VENUE**

9 7. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because all Defendants
10 reside in this district.

11 8. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial
12 part of the events or omissions giving rise to the claims occurred in this district.

13 **PARTIES**

14 9. Plaintiff is the People of the State of California and the State of California, by and
15 through its Attorney General, Rob Bonta (hereinafter "Plaintiff").

16 10. Defendant Ejuicesteals.com (hereinafter "Ejuicesteals") is a corporation that is
17 incorporated in California (entity number 4210057) and has its principal business address
18 registered at 2841 Unicorn Road, Suite 102, Bakersfield, California 93308. Defendant
19 Ejuicesteals also operates from 10010 Rosedale Highway, Unit 3, Bakersfield, California 93312,
20 and 2882 Walnut Avenue, Suite A, Tustin, California 92780. Defendant Ejuicesteals previously
21 operated from 51 Peters Canyon Road, Irvine, California 92606. Defendant Ejuicesteals offers for
22 sale and sells tobacco products directly to persons in California from its California business
23 locations, including through its website, www.ejuicesteals.com.

24 11. According to the California Secretary of State official corporate records, Defendant
25 Remon Hanna is Chief Executive Officer, Chief Financial Officer, Secretary, and the sole
26 Director of Defendant Ejuicesteals.

27 12. At all relevant times, Remon Hanna was acting as an agent, servant, assignee,
28 representative, partner, joint venture partner, co-conspirator, or employee of the other Defendant

1 Ejuicesteals, and, in doing the acts alleged herein, was acting within the course and scope of said
2 agency, service, assignment, representation, partnership, joint venture, conspiracy, or
3 employment. Due to the relationship between Defendant Remon Hanna and Defendant
4 Ejuicesteals, each of the Defendants has knowledge or constructive notice of the acts of each of
5 the other Defendants.

6 13. In committing the acts and omissions alleged herein, Defendant Remon Hanna
7 caused, aided, abetted, facilitated, encouraged, authorized, permitted and/or ratified the wrongful
8 acts and omissions of Defendant Ejuicesteals.

9 14. In this Complaint, when reference is made to any act or omission of Defendant
10 Ejuicesteals, such allegations shall include the acts and omissions of owners, officers, directors,
11 agents, employees, contractors, vendors, affiliates, and representatives of said Defendant while
12 acting within the course and scope of their employment or agency on behalf of said Defendant.

13 **RELEVANT STATUTORY BACKGROUND AND LEGAL FRAMEWORK**

14 15. While significant progress has been made to reduce the popularity of smoking,
15 tobacco use still remains the leading preventable cause of death and disease in the United States;
16 more than 16 million Americans are living with a smoking-related disease.¹ In California,
17 smoking-related illnesses cause 40,000 deaths per year.² Tobacco use among youth is a major
18 concern in California, driven significantly by the popularity of vape products like e-cigarettes
19 among this population.³ The Centers for Disease Control and Prevention advises that youth use of
20 tobacco products in any form (including e-cigarettes) is unsafe, and that preventing youth use of
21 tobacco products is “critical to reducing tobacco use” among that group.⁴

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24 ¹ CDC, *Diseases and Death* (July 29, 2022), <https://rb.gy/k7d8k0>, last accessed Dec. 13, 2023; CDC, *State Fact Sheets* (February 14, 2023), <https://rb.gy/pau8fu>, last accessed Dec. 13, 2023.

25 ² California Department of Public Health, California Tobacco Control Program, *California Tobacco Facts and Figures 2022* (May 2023), <https://rb.gy/7gc38w>, at 1, last accessed Dec. 13, 2023.

26 ³ *Id.*

27 ⁴ CDC, *Youth Data* (November 2, 2023), <https://rb.gy/w1ygh9>, last accessed Dec. 13, 2023.
28

1 16. Since the emergence of e-cigarettes approximately a decade ago, federal, state, and
2 local governments across the nation have been working on accelerating policies and programs
3 that can reduce e-cigarette use among youth. This accelerated response to implementation of new
4 laws and policies came as a result of the dramatic increase in e-cigarette use among this group.
5 Young people have become the predominant consumers of e-cigarettes and are so addicted to
6 these products that in December 2018, the then-Surgeon General Dr. Jerome Adams called youth
7 e-cigarette use a public health epidemic.⁵ Recognizing the public health threat posed by e-
8 cigarette use among young people and in light of the rapidly changing e-cigarette market,
9 governments at all levels have implemented and continue to develop new polices that prevent
10 tobacco use among youth and young adults.

11 17. On the federal level, prior to the explosion of e-cigarette youth use, Congress enacted
12 the Prevent All Cigarette Trafficking Act of 2009 (“PACT Act”), 15 U.S.C. § 375-378 and 18
13 U.S.C. § 1716E, to, among other things, “prevent and reduce youth access to inexpensive
14 cigarettes and smokeless tobacco through illegal Internet or contraband sales” (PACT Act, March
15 31, 2010, P.L. 111-154, § 1(c)(6), 124 Stat. 1087, 1088); “make it more difficult for cigarette and
16 smokeless tobacco traffickers to engage in and profit from their illegal activities” (*see id.* at
17 § 1(c)(4)); and “require Internet and other remote sellers of cigarettes and smokeless tobacco to
18 comply with the same laws that apply to law-abiding tobacco retailers” (*see id.* at § 1(c)(1)).

19 18. Congress specifically found that “the sale of illegal cigarettes and smokeless tobacco
20 over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children
21 to obtain tobacco products” (P.L. 111-154, § 1(b)(4), 124 Stat. 1087); that “unfair competition
22 from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away
23 from law-abiding retailers throughout the United States” (*id.* at § 1(b)(6)); and that “the intrastate
24 sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on
25 interstate commerce” (*id.* at § 1(b)(10)).

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⁵CDC, *Surgeon General’s Advisory on E-cigarette Use Among Youth* (December 2018),
<https://rb.gy/dhn7fu>, last accessed Dec. 13, 2023.

1 19. The PACT Act originally addressed cigarettes and smokeless tobacco, but other
2 tobacco products have grown in popularity since its passage. Since 2009, when the PACT Act
3 was enacted, a number of tobacco companies have developed e-cigarettes with high nicotine
4 content and in a myriad of kid-friendly flavors favored by youth.

5 20. In response, Congress passed the Prevent Online Sales of E-Cigarettes to Children
6 Act (“POSECA”) in December 2020, extending the same online sales requirements in place for
7 cigarettes and smokeless tobacco to e-cigarettes as well. Effective March 27, 2021, POSECA
8 amended the PACT Act definition of the term “cigarette” to include “electronic nicotine delivery
9 systems” (hereinafter “ENDS” or “e-cigarettes”), *see* 15 U.S.C. § 375(2)(A)(ii)(II), and therefore
10 made the PACT Act provisions applicable to these products.⁶

11 21. As amended by POSECA, the PACT Act makes all e-cigarettes nonmailable and
12 prohibits them from being deposited in or carried through the United States Postal Service
13 (USPS) mails, absent limited exceptions not applicable herein. 18 U.S.C. § 1716E(a).

14 22. The PACT Act, among other things, also requires every “delivery seller” to comply
15 with specific statutory requirements, including:⁷

- 16 (1) The shipping requirements set forth in 15 U.S.C. § 376a(b). 15 U.S.C.
17 § 376a(a)(1);

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20 ⁶ The term “electronic nicotine delivery system” means “any electronic device that,
21 through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user
22 inhaling from the device,” *see* 15 U.S.C. § 375(7)(A), and includes: “(i) an e-cigarette; (ii) an e-
23 hookah; (iii) an e-cigar; (iv) a vape pen; (v) an advanced refillable personal vaporizer; (vi) an
24 electronic pipe; and (vii) any component, liquid, part, or accessory of a device described in
25 subparagraph (A), without regard to whether the component, liquid, part, or accessory is sold
26 separately from the device,” *see* 15 U.S.C. § 375(7)(B).

27 ⁷ Under the PACT Act, the term “delivery seller” means a person who “makes a delivery
28 sale.” 15 U.S.C. § 375(6). The term “delivery sale” means any sale of e-cigarettes to a consumer
if: (1) “the consumer submits the order for the sale by means of a telephone or other method of
voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not
in the physical presence of the buyer when the request for purchase or order is made,” *see* 15
U.S.C. § 375(5)(A); or (2) e-cigarettes “are delivered to the buyer by common carrier, private
delivery service, or other method of remote delivery, or the seller is not in the physical presence
of the buyer when the buyer obtains possession of” the e-cigarettes, *see* 15 U.S.C. § 375(5)(B).
The PACT Act defines the term “consumer” as any person that purchases e-cigarettes, *see* 15
U.S.C. § 375(4)(A); but excludes any person lawfully operating as a manufacturer, distributor,
wholesaler, or retailer of e-cigarettes, *see* 15 U.S.C. § 375(4)(B).

1 (2) The recordkeeping requirements set forth in 15 U.S.C. § 376a(c). 15 U.S.C.
2 § 376a(a)(2);

3 (3) “[A]ll State, local, tribal, and other laws generally applicable to sales of cigarettes
4 or smokeless tobacco as if the delivery sales occurred entirely within the specific
5 State and place,” including laws imposing: excise taxes; licensing and tax-stamping
6 requirements; restrictions on sales to minors; and other payment obligations or legal
7 requirements relating to the sale, distribution, or delivery of cigarettes or smokeless
8 tobacco. 15 U.S.C. § 376a(a)(3); and

9 (4) The tax collection requirements set forth in 15 U.S.C. § 376a(d). 15 U.S.C.
10 § 376a(a)(4).

11 23. Also, on the federal level, every new tobacco product is subject to the federal Food
12 and Drug Administration’s (“FDA”) premarket review pursuant to 21 U.S.C. § 387j(a)(2), and
13 must receive an order from the FDA under 21 U.S.C. § 387j(c)(1)(A)(i) authorizing introduction
14 or delivery for introduction into interstate commerce of the new tobacco product.⁸ Under federal
15 law, unapproved tobacco products are considered adulterated pursuant to 21 U.S.C. § 387b(6)(A).
16 It is forbidden to receive, deliver, or proffer for delivery for pay or otherwise adulterated tobacco
17 products in interstate commerce. 21 U.S.C. § 331(c). To date, the FDA has issued marketing
18 orders approving only 23 e-cigarette products and none of them are flavored tobacco products.⁹
19 See Exhibit A. As the FDA recently explained in connection with a separate enforcement action,
20 adulterated “products do not have the required marketing authorization from the FDA. To date,

21 ⁸ Under the federal Food, Drug, and Cosmetic Act, the term “tobacco product” means
22 “any product made or derived from tobacco, or containing nicotine from any source, that is
23 intended for human consumption, including any component, part, or accessory of a tobacco
24 product (except for raw materials other than tobacco used in manufacturing a component, part, or
25 accessory of a tobacco product).” 21 U.S.C. § 321(rr)(1). The term “new tobacco product” means:
26 (1) “any tobacco product (including those products in test markets) that was not commercially
27 marketed in the United States as of February 15, 2007”; or (2) “any modification (including a
28 change in design, any component, any part, or any constituent, including a smoke constituent, or
in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco
product where the modified product was commercially marketed in the United States after
February 15, 2007.” 21 U.S.C. § 387j(a)(1).

⁹ Tobacco Education Resource Library, *FDA Authorized E-Cigarette Products* (August
2023), <https://rb.gy/m8bso0>, last accessed Dec. 13, 2023; *Premarket Tobacco Product Marketing
Granted Orders* (November 22, 2023), <https://rb.gy/7kfhnl>, last accessed Dec. 13, 2023.

1 the FDA has authorized 23 tobacco-flavored e-cigarette products and devices. These are the only
2 e-cigarette products that currently may be lawfully sold in the U.S.”¹⁰

3 24. In California, the State’s legislature enacted a comprehensive statewide tobacco
4 control program designed to protect the public, particularly youth, from exposure to these
5 dangerous and addictive products.

6 25. The California legislature found that “reducing and eventually eliminating the illegal
7 purchase and consumption of tobacco products by any person under 21 years of age is critical to
8 ensuring the long-term health of our state’s citizens.” Cal. Bus. & Prof. Code § 22951. As of June
9 9, 2016, the Stop Tobacco Access to Kids Enforcement Act (“STAKE Act”), Cal. Bus. & Prof.
10 Code §§ 22950-22964, prohibits the sale, giving away, or furnishing of tobacco products to any
11 person under 21 years of age, *see* Cal. Bus. & Prof Code §§ 22958(a)(1), 22963(a), and imposes
12 age verification and other requirements applicable to remote sales of tobacco products to persons
13 in California, *see* Cal. Bus. & Prof. Code § 22963.

14 26. California has established legal requirements to limit online distributions of tobacco
15 products and limit youth access to such products. In California, a person may engage in “delivery
16 sales” of tobacco products only when all of the conditions of California Revenue and Taxation
17 Code § 30101.7(d) are met, including the requirements to fully comply with all of the
18 requirements of 15 U.S.C. § 375 *et. seq.*, *see* Cal. Rev. & Tax. Code § 30101.7(d)(1), and the
19 State’s tobacco licensing laws, *see* Cal. Rev. & Tax. Code § 30101.7(d)(2).

20 27. As in other jurisdictions, these requirements were originally limited to cigarettes and
21 other tobacco products, but have now been extended to reach e-cigarettes as well. In November
22 2016, California voters approved the California Healthcare, Research and Prevention Tobacco
23 Tax Act of 2016 (Proposition 56), which, among other things, amended the definition of tobacco
24 products to include e-cigarettes. Cal. Rev. & Tax. Code § 30121(b). Effective April 1, 2017,
25 electronic cigarettes, as defined in Cal. Rev. & Tax. Code § 30121(c), became subject to
26

27 ¹⁰ *See* FDA, *FDA Inspection Blitz Leads to More Than 180 Warning Letters to Retailers*
28 *for the Illegal Sale of Youth-Appealing Elf Bar and Esco Bars E-Cigarettes* (June 22, 2023),
<https://rb.gy/lrmcqi>, last accessed on Dec. 13, 2023.

1 California’s tobacco excise tax imposed under the California Cigarette and Tobacco Products Tax
2 Law, Cal. Rev. & Tax. Code §§ 30001-30483.

3 28. Under the existing California regime, any person who engages in delivery sales of e-
4 cigarettes to a person in California must, among other things, obtain and maintain any applicable
5 licenses required under the California Cigarette and Tobacco Products Tax Law, Cal. Rev. & Tax.
6 Code §§ 30001-30483, and the California Cigarette and Tobacco Products Licensing Act of 2003,
7 Cal. Bus. & Prof Code §§ 22970-22995, as if the delivery sales occurred entirely within this
8 State. Cal. Rev. & Tax. Code § 30101.7(d)(2).

9 29. California also has a comprehensive tobacco licensing scheme, requiring licenses for
10 manufacturers, importers, distributors, wholesalers, and retailers of tobacco products. Cal. Bus. &
11 Prof. Code §§ 22970–22995. This licensing scheme serves to ensure collection of taxes that
12 provide funding for vital local and state programs, including health services, tobacco prevention
13 and cessation campaigns, cancer research, and education programs, *see* Cal. Bus. & Prof. Code
14 § 22970.1, and also as a mechanism to hold tobacco retailers that sell tobacco products to minors
15 accountable through imposition of extensive penalties and license suspensions and revocations,
16 *see* Cal. Bus. & Prof. Code § 22958.

17 30. The California Cigarette and Tobacco Products Licensing Act of 2003 requires a
18 retailer to have and maintain a license to engage in the sale of tobacco products in California. Cal.
19 Bus. & Prof. Code § 22972(a). A tobacco retailer that owns or controls more than one retail
20 location must obtain a separate license for each retail location. *Id.*

21 31. A person or entity that engages in the business of selling tobacco products in
22 California without a valid license or after a license has been suspended or revoked, and each
23 officer of any corporation that so engages in this business, is guilty of a misdemeanor. Cal. Bus.
24 & Prof. Code § 22980.2(a).

25 32. In October 2021, the California legislature enacted the Healthy Outcomes and
26 Prevention Education (HOPE) Act, Cal. Rev. & Tax. Code § 31000-31008. Effective July 1,
27 2022, all retailers that sell e-cigarettes to persons in California are required to register with the
28 California Department of Tax and Fee Administration (“CDTFA”), California’s business tax

1 administration and licensing agency, for a California electronic cigarette excise tax (hereinafter
2 “e-cigarette excise tax”) permit, *see* Cal. Rev. & Tax. Code § 31002(f); collect e-cigarette excise
3 tax from California purchasers, *see* Cal. Rev. & Tax. Code § 31002(a)(2); remit e-cigarette excise
4 tax to CDTFA quarterly on or before the last day of the month following each calendar quarter,
5 *see* Cal. Rev. & Tax. Code § 31002(d)(1); file a return on or before the last day of the month
6 following each quarterly period for the preceding quarterly period, *see* Cal. Rev. & Tax. Code
7 § 31002(d)(2)(A); and for each retail sale of an electronic cigarette, provide a purchaser with a
8 receipt or other document that sets out and separately identifies the “California Electronic
9 Cigarette Excise Tax” and the amount paid by the purchaser, *see* Cal. Rev. & Tax. Code
10 § 31003.¹¹

11 ALLEGATIONS

12 I. DEFENDANTS ENGAGE IN UNLAWFUL BUSINESS ACTS AND PRACTICES

13 33. Despite the comprehensive regime regulating the sales of tobacco products,
14 particularly sales of these products through the Internet, Defendants have failed to bring
15 themselves into compliance with legal requirements even after being warned by state and federal
16 regulators time and time again.

17 A. Defendants Sell Tobacco Products to Underage Consumers

18 34. On March 29, 2019, a youth decoy under 21 years old operating under the
19 supervision of a special agent of the California Department of Justice (“DOJ”) accessed

20 _____
21 ¹¹ For the purposes of the HOPE Act, the term “electronic cigarette” means “any of the
22 following:

23 (A) A device or delivery system sold in combination with any liquid substance containing
24 nicotine that can be used to deliver to a person nicotine in aerosolized or vaporized form,
25 including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

26 (B) A component, part, or accessory of a device described in subparagraph (A) that is used
27 during the operation of the device if sold in combination with a liquid substance containing
28 nicotine.

(C) A liquid or substance containing nicotine, whether sold separately or sold in
combination with any device, that could be used to deliver to a person nicotine in aerosolized or
vaporized form.”

Cal. Rev. & Tax. Code § 31001(c)(1).

1 Defendant Ejuicesteals' website, www.ejuicesteals.com, and placed an order for one bottle of
2 nicotine e-liquid. After Ejuicesteals completed the transaction and delivered the product, in June
3 2019, the California Office of the Attorney General ("OAG") sent a warning letter to Defendant
4 Ejuicesteals addressing its sales-to-minors violations and failures to comply with state laws. *See*
5 Exhibit B. The OAG's warning letter requested that Defendant Ejuicesteals comply with laws
6 applicable to remote sales of tobacco products, including the STAKE Act and California's
7 licensing laws. Defendant Ejuicesteals did not respond to the OAG's June 2019 warning letter.

8 35. On October 4, 2019, the same youth decoy under 21 years old, operating again under
9 the supervision of a DOJ special agent, accessed Defendant Ejuicesteals' website,
10 www.ejuicesteals.com, and ordered nicotine e-liquid. After Ejuicesteals completed this order and
11 delivered the product, and following additional investigation, in June 2020, OAG sent a letter
12 demanding that Defendant Ejuicesteals immediately cease and desist from making any sales to
13 persons in California until it complied with all provisions of the STAKE Act, including
14 compliance with age verification requirements applicable to remote sales of tobacco products,
15 container labeling requirements for tobacco shipments, and the requirement to obtain the
16 signature of a person 21 years of age or older before completing the delivery of tobacco products
17 to the recipient's or purchaser's address. *See* Exhibit C.

18 36. Defendant Ejuicesteals responded to OAG by providing assurances of compliance
19 with the STAKE Act and submitting additional records, including a purchase invoice that showed
20 no tax payment for the purchased tobacco products. *See* Exhibit D.

21 37. California law penalizes a tobacco retailer or any other person for possessing, storing,
22 owning, or making a retail sale of untaxed tobacco products and makes such untaxed tobacco
23 products subject to seizure. Cal. Bus. & Prof. Code § 22974.3(b). Possession of untaxed tobacco
24 products on which tax is due and has not been paid as required is a violation of the California
25 Cigarette and Tobacco Products Licensing Act of 2003 and subjects the retailer or other persons,
26 as applicable, to criminal penalties. *Id.*

27 38. OAG sent a third letter to Defendant Ejuicesteals in August 2020, informing
28 Defendants of additional violations of state laws, including possessing untaxed tobacco products

1 and making retail sales of tobacco products to persons from an unlicensed retail location. *See*
2 Exhibit E.

3 39. In September 2020, Defendant Ejuicesteals provided responses to various issues
4 raised in the AOG’s August 2020 letter, including a statement that Defendant Ejuicesteals had
5 relocated from the unlicensed location.

6 **B. Defendants Defy Demands and Requirements Imposed by the Food and**
7 **Drug Administration**

8 40. Defendant Ejuicesteals also disregards federal laws applicable to the sale of tobacco
9 products.

10 41. In July 2020, the Federal Food and Drug Administration (“FDA”) issued a warning
11 letter to Defendant Ejuicesteals stating that the company was violating federal law by offering for
12 sale to consumers through its website tobacco products with graphic images that imitate food
13 products typically marketed toward and/or appealing to children, and offering for sale adulterated
14 and misbranded tobacco products. *See* Exhibit F.

15 42. In its August 2020 response to the FDA’s July 2020 letter, Defendant Ejuicesteals
16 admitted that it sells tobacco products subject to the FDA’s premarket approval and that “there is
17 no disagreement that ‘new tobacco products’ (those not commercially marketed as of February
18 15, 2007) must obtain premarket authorization”. *See* Exhibit G. Defendant Ejuicesteals also
19 represented its “intent to absolutely stay in compliance with all federal and state regulations,
20 including those imposed by the FD&C Act”. *See id* at 1.

21 43. Despite these representations of compliance, Defendant Ejuicesteals continues to
22 offer for sale and sells through its website, www.ejuicesteals.com, unapproved new tobacco
23 products, including disposable e-cigarettes, in a large variety of fruit and dessert flavors. The new
24 tobacco products Defendant Ejuicesteals offers for sale and sells are precisely the kinds of
25 products (*e.g.*, disposable e-cigarettes such as Elf Bar) that recent studies have specifically
26 associated with youth use.¹²

27 _____
28 ¹² CDC, *E-Cigarette Unit Sales by Product and Flavor Type, and Top-Selling Brands, United States, 2020-2022* (June 23, 2023), <https://rb.gy/34f8do>, last accessed Dec. 13, 2023.

1 **II. DEFENDANTS CONTINUE TO ENGAGE IN UNLAWFUL ACTS AND PRACTICES IN**
2 **VIOLATION OF STATE AND FEDERAL LAW**

3 44. Defendants' unlawful conduct has not stopped even with repeated opportunities to
4 bring itself into compliance. To date, Defendants continue to engage in unlawful acts and
5 practices relating to their receipt, possession, storage, transfer, distribution, offering for sale,
6 selling, and delivering of tobacco products in California:

7 **A. Defendants Sell and Deliver Tobacco Products to Persons in California in**
8 **Violation of State and Federal Laws Regulating the Sale of Tobacco**
9 **Products**

10 45. Defendant Ejuicesteals continues to violate state and federal laws regulating the sale
11 of tobacco products in California, particularly the PACT Act, the STAKE Act, California delivery
12 sales provisions, and the California Unfair Competition Law.

13 46. In July and October 2023, undercover DOJ special agents accessed Defendant
14 Ejuicesteals' website, www.ejuicesteals.com, and ordered several products that have not received
15 FDA authorization, including Elf Bar, Flum, Candy Barz, and Truly Bar Elf Disposable flavored
16 disposable e-cigarettes.

17 47. In July and October 2023, Defendant Ejuicesteals sent emails to the DOJ special
18 agents' undercover email account confirming the orders for flavored disposable e-cigarettes.
19 Defendant Ejuicesteals' email itemized charges for e-cigarettes, but did not include any statement
20 or separate charge for California e-cigarette excise tax required under Revenue and Taxation
21 Code § 31003.

22 48. After placing the orders on Defendant Ejuicesteals' website, the DOJ special agents
23 did not receive from Defendant Ejuicesteals any telephone call confirming the order prior to its
24 shipping the tobacco products, as required under California Business and Professions Code
25 § 22963(b)(3).

26 49. In July and October 2023, Defendant Ejuicesteals delivered packages containing
27 flavored disposable e-cigarettes using USPS mails to the DOJ special agents' California address.
28 The packages labels did not include any statement that the packages contain tobacco products, as
required under California Business and Professions Code § 22963(b)(5) .

1 50. Defendant Ejuicesteals delivered the packages to the DOJ special agents' California
2 address without obtaining any signature or government identification at the time of the delivery of
3 the packages, as required under California Business and Professions Code § 22963(b)(6).

4 **B. Defendants Deposit in and Deliver Through USPS Mails Nonmailable**
5 **ENDS in Violation of 18 U.S.C. § 1716E**

6 51. Defendant Ejuicesteals illegally uses USPS mails to ship e-cigarettes to persons in
7 California.

8 52. Defendant Ejuicesteals states on its website, www.ejuicesteals.com, that it ships e-
9 cigarettes to consumers using USPS mails. *See* Exhibit H:¹³

10 **What carrier do you use for shipping?**

11 Domestic:

12 USPS Priority: Usually delivers within 2-3 business days with tracking information

13 International:

14 USPS Priority: Usually delivers within 5-7 business days with tracking information

15 *Please note: USPS Shipping timelines are not guaranteed.

16
17
18
19 53. As confirmed through the DOJ special agents' July and October 2023 undercover
20 purchases from Defendant Ejuicesteals' website, www.ejuicesteals.com, Defendant Ejuicesteals
21 sold flavored disposable e-cigarettes and delivered these products to the California address using
22 USPS mails, despite such deliveries being prohibited under 18 U.S.C. § 1716E(a).

23 **C. Defendants Make Delivery Sales of Tobacco Products in Violation of**
24 **California Revenue and Taxation Code § 30101.7, and the California**
25 **Cigarette and Tobacco Products Licensing Act of 2003**

26 54. Defendant Ejuicesteals also fails to comply with California's delivery sales statute
27 and licensing requirements.

28 ¹³ *See* Ejuicesteals, *FAQs*, <https://www.ejuicesteals.com/pages/faqs>, last accessed Dec. 13, 2023.

1 55. As a result of the aforementioned July and October 2023 undercover purchases from
2 Defendant Ejuicesteals' website, www.ejuicesteals.com, Defendants delivered to the DOJ special
3 agents' California address packages containing flavored disposable e-cigarettes. The labels on the
4 packages identified that the shipments came from "Adam Johnson" with the shipping address
5 10010 Rosedale Highway, Unit 3, Bakersfield, California 93312.

6 56. Since at least June 2023 and continuing to the present, Defendant Ejuicesteals
7 discloses on its website, www.ejuicesteals.com, that its address is 10010 Rosedale Highway, Unit
8 3, Bakersfield, California 93312.¹⁴ See Exhibit I.

9 57. According to CDTFA official licensing records, until at least August 30, 2023,
10 Defendant Ejuicesteals did not hold a tobacco retailer license for 10010 Rosedale Highway, Unit
11 3, Bakersfield, California 93312.

12 58. Since at least January 2021 (*see* Exhibit J)¹⁵ and continuing to at least May 2023 (*see*
13 Exhibit K),¹⁶ Defendant Ejuicesteals disclosed to consumers on its website,
14 www.ejuicesteals.com, that its address was 2841 Unicorn Road, Suite 102, Bakersfield,
15 California 93308, which is Defendant Ejuicesteals' principal place of business registered with the
16 California Secretary of State.

17 59. Upon information and belief, since at least January 2021 and continuing to at least
18 May 2023, Defendant Ejuicesteals sold tobacco products to persons in California from its
19 principal business address 2841 Unicorn Road, Suite 102, Bakersfield, California 93308.
20 According to CDTFA official licensing records, at all relevant times and continuing to the
21 present, Defendant Ejuicesteals does not hold a tobacco retailer license for 2841 Unicorn Road,
22 Suite 102, Bakersfield, California 93308.

23 ///

24 ///

25 _____
26 ¹⁴ See image of Defendant Ejuicesteals' website homepage archived on June 5, 2023
through <https://rb.gy/th8oid>, last accessed Dec. 13, 2023.

27 ¹⁵ See image of Defendant Ejuicesteals' website homepage archived on January 28, 2021
through <https://rb.gy/63jcoz>, last accessed Dec. 13, 2023.

28 ¹⁶ See image of Defendant Ejuicesteals' website homepage archived on May 6, 2023
through <https://rb.gy/bpfz6k>, accessed on Dec. 13, 2023.

FIRST CAUSE OF ACTION

VIOLATIONS OF THE PACT ACT (18 U.S.C. § 1716E)

60. The State of California repeats and realleges all paragraphs set forth above and incorporates them by reference.

61. The PACT Act makes all e-cigarettes nonmailable and prohibits them from being deposited in or carried through USPS mails, *see* 18 U.S.C. § 1716E(a), absent limited exceptions not applicable herein.

62. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals deposits in and delivers through USPS mails nonmailable e-cigarettes in violation of 18 U.S.C. §1716E(a).

63. The PACT Act authorizes a state, through its attorney general, to bring a civil action in a United States district court to obtain appropriate relief with respect to a violation of 18 U.S.C. § 1716E. *Id.* § 1716E(h)(1). “Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section [18 U.S.C. § 1716E] to addressees in that State, locality, or tribal land.” *Id.* The remedies available under 18 U.S.C. § 1716E(h) are in addition to any other remedies available under federal, state, local, or tribal, or other laws. *Id.* § 1716E(h)(4).

64. Pursuant to 18 U.S.C. § 1716E(d), in addition to any other fines and penalties applicable under Title 18 of the United States Code, any person who violates 18 U.S.C. § 1716E is subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable e-cigarettes, including all federal, state, and local taxes.

SECOND CAUSE OF ACTION

VIOLATIONS OF THE PACT ACT (15 U.S.C. §§ 375-378)

65. Every delivery seller, as this term is defined in 15 U.S.C. § 375(6), is subject to the PACT Act requirements. 15 U.S.C. § 376a. For any shipping package containing e-cigarettes, the PACT Act requires every delivery seller to include on the bill of lading, if any, and on the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous

1 statement providing as follows: “CIGARETTES/NICOTINE/SMOKELESS TOBACCO:
2 FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES,
3 AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING
4 OBLIGATIONS”. *Id.* § 376a(b)(1).

5 66. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals
6 operates as a delivery seller and makes delivery sales, as this term is defined in 15 U.S.C.
7 § 375(5), through its website, www.ejuicesteals.com, to consumers, as this term is defined in 15
8 U.S.C. § 375(4), in California and nationwide.

9 67. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals ships
10 and delivers e-cigarettes to California consumers in packages that do not contain the label
11 required under 15 U.S.C. § 376a(b)(1).

12 68. The PACT Act also provides that every delivery seller must use a method of mailing
13 or shipping e-cigarettes that requires: (1) “the purchaser placing the delivery sale order, or an
14 adult who is at least the minimum age required for the legal sale or purchase of tobacco products,
15 as determined by the applicable law at the place of delivery, to sign to accept delivery of the
16 shipping container at the delivery address”, 15 U.S.C. § 376a(b)(4)(A)(ii)(I); and (2) “the person
17 who signs to accept delivery of the shipping container to provide proof, in the form of a valid,
18 government-issued identification bearing a photograph of the individual, that the person is at least
19 the minimum age required for the legal sale or purchase of tobacco products, as determined by the
20 applicable law at the place of delivery”, 15 U.S.C. § 376a(b)(4)(A)(ii)(II).

21 69. The PACT Act forbids a delivery seller from accepting an order from a person
22 without: “obtaining the full name, birth date, and residential address of that person”, 15 U.S.C.
23 § 376a(b)(4)(A)(iii)(I); and “verifying the information provided in [15 U.S.C.
24 § 376a(b)(4)(A)(iii)(I)], through the use of a commercially available database or aggregate of
25 databases, consisting primarily of data from government sources, that are regularly used by
26 government and businesses for the purpose of age and identity verification and authentication, to
27 ensure that the purchaser is at least the minimum age required for the legal sale or purchase of
28

1 tobacco products, as determined by the applicable law at the place of delivery”, 15 U.S.C.
2 § 376a(b)(4)(A)(iii)(II).

3 70. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals ships
4 and delivers e-cigarettes to California consumers without complying with mailing, shipping,
5 delivering, and age verification requirements of 15 U.S.C. § 376a(b)(4)(A).

6 71. The PACT Act also requires every delivery seller of e-cigarettes to comply with “all
7 State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco
8 as if the delivery sales occurred entirely within the specific State and place,” including laws
9 imposing: (1) excise taxes; (2) licensing and tax-stamping requirements; (3) restrictions on sales
10 to minors; and (4) other payment obligations or legal requirements relating to the sale,
11 distribution, or delivery of e-cigarettes. 15 U.S.C. § 376a(a)(3).

12 72. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals
13 makes delivery sales of e-cigarettes in California without complying with all state and federal
14 laws generally applicable to sales of e-cigarettes as incorporated into law and required by the
15 PACT Act. 15 U.S.C. § 376a(a)(3). Namely:

- 16 a. Defendants do not comply with the STAKE Act by selling tobacco products to
17 California persons under 21 years of age in violation of California Business and
18 Professions Code §§ 22958(a)(1), and 22963(a).
- 19 b. Defendants do not comply with the STAKE Act by selling tobacco products to
20 persons in California without complying with all of the age verification requirements
21 of California Business and Professions Code § 22963(b)(1).
- 22 c. Defendants violate California Business and Professions Code § 22963(b)(3) by
23 selling tobacco products to California persons without making a telephone call after 5
24 p.m. to the purchaser confirming the order prior to shipping the tobacco products.
- 25 d. Defendants do not comply with the HOPE Act by making retail sales of e-
26 cigarettes in California without complying with all of the e-cigarette excise tax return
27 filing requirements imposed under California Revenue and Taxation Code
28 § 31002(d)(2)(A).

1 e. Defendants do not comply with the HOPE Act by making retail sales of e-
2 cigarettes in California without complying with all of the e-cigarette excise tax
3 remittance requirements imposed under California Revenue and Taxation Code
4 § 31002(d)(1).

5 f. Defendants do not comply with the HOPE Act by making retail sales of e-
6 cigarettes in California without complying with all of the e-cigarette excise tax
7 collection requirements imposed under California Revenue and Taxation Code
8 § 31002(a)(2).

9 g. Defendants do not comply with the HOPE Act by making retail sales of e-
10 cigarettes in California without complying with all of the receipt issuance and receipt
11 statement requirements imposed under California Revenue and Taxation Code
12 § 31003.

13 h. Defendants do not comply with California Revenue and Taxation Code
14 § 30101.7(d)(2), due to their failure to obtain and maintain applicable licenses
15 required under the California Cigarette and Tobacco Products Licensing Act of 2003.

16 i. Defendants do not comply with requirements of the California Cigarette and
17 Tobacco Products Licensing Act of 2003, by making retail sales of tobacco products
18 to persons in California without holding and maintaining a separate tobacco retailer
19 license for each retail location, *see* Cal. Bus. & Prof. Code § 22972(a).

20 j. Defendants do not comply with federal laws generally applicable to sales of e-
21 cigarettes, including legal requirements relating to the sale, distribution, or delivery of
22 e-cigarettes, particularly 18 U.S.C. § 1716E(a), by depositing in and delivering
23 through USPS mails nonmailable e-cigarettes.

24 k. Defendants do not comply with federal laws generally applicable to sales of e-
25 cigarettes, including legal requirements relating to the sale, distribution, or delivery of
26 e-cigarettes, particularly 21 U.S.C. § 331(c), by the receipt or delivery or proffered
27 delivery thereof for pay or otherwise of adulterated tobacco products in interstate
28 commerce.

1 73. The PACT Act authorizes a state, through its attorney general, to bring a civil action
2 in a United States district court to prevent and restrain violations of 15 U.S.C. § 375 *et. seq.* and
3 to obtain any other appropriate relief, including civil penalties, money damages, and injunctive or
4 other equitable relief. 15 U.S.C. § 378(c)(1)(A).

5 74. Any delivery seller who violates the PACT Act is subject to civil penalties set forth in
6 15 U.S.C. § 377(b)(1)(A). The remedies available under 15 U.S.C. §§ 377-378 are in addition to
7 any other remedies available under federal, state, local, tribal, or other law. 15 U.S.C. § 378(c)(4).

8 **THIRD CAUSE OF ACTION**

9 **VIOLATIONS OF DELIVERY SALES PROVISIONS OF THE CALIFORNIA**
10 **CIGARETTE AND TOBACCO PRODUCTS TAX LAW (CAL. REV. & TAX. CODE**
11 **§ 30101.7)**

12 75. The State of California repeats and realleges all paragraphs set forth above and
13 incorporates them by reference.

14 76. Every delivery seller, as this term is defined in California Revenue and Taxation
15 Code § 30101.7(c)(3), who engages in delivery sales, as this term is defined in California
16 Revenue and Taxation Code § 30101.7(c)(2), of tobacco products, as this term is defined in
17 California Revenue and Taxation Code § 30121(b), to a person in California must fully comply
18 with all of the requirements of the PACT Act, 15 U.S.C. §§ 375-378. Cal. Rev. & Tax. Code
19 § 30101.7(d)(1).

20 77. Since at least March 2021 and continuing to the present, Defendant Ejuicesteals
21 operates as a delivery seller in violation of California Revenue and Taxation Code
22 § 30101.7(d)(1) by making delivery sales of e-cigarettes without complying with the requirements
23 of 15 U.S.C. § 376a.

24 78. Any person who engages in delivery sales of tobacco products in California must
25 obtain and maintain any applicable license required under the California Cigarette and Tobacco
26 Products Licensing Act of 2003, as if the delivery sales occurred entirely within this State. Cal.
27 Rev. & Tax. Code § 30101.7(d)(2).

28 79. The California Cigarette and Tobacco Products Licensing Act of 2003 requires a
retailer to have in place and maintain a license to engage in the sale of tobacco products in

1 California. Cal. Bus. & Prof. Code § 22972(a). A tobacco retailer that owns or controls more than
2 one retail location must obtain a separate license for each retail location. *Id.*

3 80. At all relevant times and continuing to the present, Defendant Ejuicesteals operates as
4 a tobacco retailer, as this term is defined in California Business and Professions Code § 22971(q).

5 81. Since at least January 2019 and continuing to the present, Defendant Ejuicesteals
6 makes retail sales of tobacco products to persons in California in violation of California Revenue
7 and Taxation Code § 30101.7(d)(2), without holding a tobacco retailer license for each retail
8 location, as required under California Business and Professions Code § 22972(a), including by
9 operating from the following unlicensed locations: (1) 2841 Unicorn Road, Suite 102,
10 Bakersfield, California 93308; (2) 10010 Rosedale Highway, Unit 3, Bakersfield, California; and
11 (3) 51 Peters Canyon Road, Irvine, California 92606.

12 82. The California Attorney General may bring a civil action to enforce against a person
13 who violates California Revenue and Taxation Code § 30101.7 and, in addition to any other
14 remedy provided by law, the court is authorized to assess a civil penalty in accordance with the
15 schedule set forth in California Revenue and Taxation Code § 30101.7(g).

16 **FOURTH CAUSE OF ACTION**

17 **VIOLATIONS OF STAKE ACT (CAL. BUS. & PROF. CODE §§ 22950-22964)**

18 83. The State of California repeats and realleges all paragraphs set forth above and
19 incorporates them by reference.

20 84. The STAKE Act prohibits selling, giving away, or in any way furnishing of tobacco
21 products, as this term is defined in California Business and Professions Code § 22950.5(d)(1), to
22 any person who is under 21 years of age. Cal. Bus. & Prof. Code §§ 22958(a)(1), 22963(a).

23 85. Since at least March 2019, Defendant Ejuicesteals sold tobacco products to California
24 persons under 21 years of age.

25 86. The Attorney General is authorized to enforce the STAKE Act pursuant to California
26 Business and Professions Code § 22950.5(b), and to assesses civil penalties under California
27 Business and Professions Code § 22958(a)(1) against any person, firm, or corporation that sells,
28

1 gives, or in any way furnishes to another person who is under 21 years of age, any tobacco,
2 cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking
3 or ingestion of tobacco, tobacco products, or any controlled substance.

4 87. In California, before enrolling a person as a customer, or distributing or selling, or
5 engaging in the nonsale distribution of the tobacco product, the distributor or seller must verify
6 that the purchaser or recipient of the product is 21 years of age or older by attempting to match
7 the name, address, and date of birth provided by the customer to information contained in records
8 in a database of individuals whose age has been verified to be 21 years or older by reference to an
9 appropriate database of government records. Cal. Bus. & Prof. Code § 22963(b)(1)(A). As part of
10 this age verification, in the case of a sale, the distributor or seller of tobacco products is also
11 required to verify that the billing address on the check or credit card offered for payment by the
12 purchaser matches the address listed in the appropriate database of government records of
13 individuals whose age has been verified to be 21 years or older. *Id.*

14 88. If the seller, distributor, or nonsale distributor, is unable to verify that the purchaser or
15 recipient is 21 years of age or older pursuant to age verification in California Business and
16 Professions Code § 22963(b)(1)(A), the seller, distributor, or nonsale distributor must require the
17 customer or recipient to submit an age-verification kit consisting of an attestation signed by the
18 customer or recipient that the customer or recipient is 21 years of age or older and a copy of a
19 valid form of government identification. Cal. Bus. & Prof. Code § 22963(b)(1)(B). In the case of
20 a sale, the distributor or seller must also verify that the billing address on the check or credit card
21 provided by the consumer matches the address listed in the form of government identification. *Id.*

22 89. Since at least March 2019 and continuing to the present, Defendant Ejuicesteals sells
23 tobacco products to persons in California through its website, www.ejuicesteals.com, without
24 complying with all of the age verification requirements of California Business and Professions
25 Code § 22963(b)(1).

26 90. In the case of a sale, the distributor or seller of tobacco products must make a
27 telephone call after 5 p.m. to the purchaser confirming the order prior to shipping the tobacco
28 products. Cal. Bus. & Prof. Code § 22963(b)(3).

1 91. Since at least March 2019 and continuing to the present, Defendant Ejuicesteals sells
2 and delivers tobacco products to persons in California without making a telephone call after 5
3 p.m. to the purchaser confirming the order prior to shipping the tobacco products.

4 92. Effective January 2020, California law requires sellers or distributors to deliver
5 tobacco products only in a container that is conspicuously labeled with the words: "CONTAINS
6 TOBACCO PRODUCTS: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER
7 REQUIRED FOR DELIVERY." Cal. Bus. & Prof. Code § 22963(b)(5).

8 93. Since at least January 2020 and continuing to the present, Defendant Ejuicesteals
9 delivers tobacco products to persons in California in packages or containers that do not bear the
10 label required under California Business and Professions Code § 22963(b)(5).

11 94. Upon the delivery of the tobacco product to the recipient's or purchaser's address, the
12 seller, distributor, or nonsale distributor must obtaining the signature of a person 21 years of age
13 or older before completing the delivery. Cal. Bus. & Prof. Code § 22963(b)(6).

14 95. Since at least January 2020 and continuing to the present, Defendant Ejuicesteals
15 delivers tobacco products to persons in California in violation of California Business and
16 Professions Code § 22963(b)(6) without obtaining the signature of a person 21 years of age or
17 older before completing the delivery.

18 96. Pursuant to California Business and Professions Code § 22963(f), the California
19 Attorney General is empowered to assess civil penalties against any person, firm, corporation, or
20 other entity that violates California Business and Professions Code § 22963 according to the
21 schedule set forth in California Business and Professions Code § 22963(f).

22 **FIFTH CAUSE OF ACTION**

23 **VIOLATIONS OF CALIFORNIA UNFAIR COMPETITION LAW (CAL. BUS. & PROF.**
24 **CODE § 17200)**

25 97. The State of California repeats and realleges all paragraphs set forth above and
26 incorporates them by reference.

27 98. Since at least March 2019 and continuing to the present, Defendants have engaged,
28 and continue to engage in, aided and abetted and continue to aid and abet, and conspired and

1 continue to conspire to, engage in unfair competition, as this term is defined in California
2 Business and Professions Code § 17200. Defendants' unfair acts and practices include, but are not
3 limited to, the following:

- 4 a. Violating federal law, 18 U.S.C. § 1716E(a), by depositing in and delivering
5 through USPS mails nonmailable e-cigarettes.
- 6 b. Violating federal law, 15 U.S.C. § 376a(a)(3), by making delivery sales of e-
7 cigarettes without fully complying with all state and federal laws generally applicable
8 to sales of e-cigarettes, including legal requirements relating to the sale, distribution,
9 or delivery of e-cigarettes.
- 10 c. Violating federal law, 15 U.S.C. §§ 376a(a)(1), 376a(b)(1), by not complying
11 with package labeling requirements of 15 U.S.C. § 376a(b)(1).
- 12 d. Violating federal law, 15 U.S.C. §§ 376a(a)(1), 376a(b)(4)(A), by not
13 complying with mailing, shipping, delivering, and age verification requirements of 15
14 U.S.C. § 376a(b)(4)(A).
- 15 e. Violating California Revenue and Taxation Code § 30101.7(d)(1), by engaging
16 in delivery sales of tobacco products in California without fully complying with all of
17 the requirements of 15 U.S.C. § 376a.
- 18 f. Violating California Revenue and Taxation Code § 30101.7(d)(2), by engaging
19 in delivery sales of tobacco products in California without obtaining and maintaining
20 a separate tobacco retailer license for each retail location as required under California
21 Business and Professions Code § 22972(a).
- 22 g. Violating California Business and Professions Code § 22980.2(a), by engaging
23 in retail sales of tobacco products without holding a separate tobacco retailer license
24 for each retail location as required under California Business and Professions Code
25 § 22972(a).
- 26 h. Violating California Business and Professions Code § 22974.3(b), by
27 possessing, storing, owning, and/or making retail sales of untaxed tobacco products.
28

- 1 i. Violating the HOPE Act by making retail sales of e-cigarettes in California
2 without complying with all of the e-cigarette excise tax return filing requirements
3 imposed under California Revenue and Taxation Code § 31002(d)(2)(A).
- 4 j. Violating the HOPE Act by making retail sales of e-cigarettes in California
5 without complying with all of the e-cigarette excise tax remittance requirements
6 imposed under California Revenue and Taxation Code § 31002(d)(1).
- 7 k. Violating the HOPE Act by making retail sales of e-cigarettes in California
8 without complying with all of the e-cigarette excise tax collection requirements
9 imposed under California Revenue and Taxation Code § 31002(a)(2).
- 10 l. Violating the HOPE Act by making retail sales of e-cigarettes in California
11 without complying with all of the receipt issuance and receipt statement requirements
12 imposed under California Revenue and Taxation Code § 31003.
- 13 m. Violating the STAKE Act by selling tobacco products to California persons
14 under 21 years of age in violation of California Business and Professions Code
15 §§ 22958(a)(1), and 22963(a).
- 16 n. Violating the STAKE Act by selling tobacco products to persons in California
17 without complying with all of the age verification requirements of California
18 Business and Professions Code § 22963(b)(1).
- 19 o. Violating California Business and Professions Code § 22963(b)(3) by selling
20 tobacco products to California persons without making a telephone call after 5 p.m. to
21 the purchaser confirming the order prior to shipping the tobacco products.
- 22 p. Violating the STAKE Act by selling tobacco products to persons in California
23 and delivering these products in containers that do not bear a label required pursuant
24 to California Business and Professions Code § 22963(b)(5).
- 25 r. Violating California Business and Professions Code § 22963(b)(6) by selling
26 tobacco products to persons in California and delivering these products to the
27 recipients' or purchasers' addresses without obtaining the signature of a person 21
28 years of age or older before completing the delivery.

1 99. The California Attorney General is authorized by California Business and Professions
2 Code § 17204 to obtain injunctive relief to halt violations of, and enforce compliance with,
3 California Business and Professions Code § 17200 *et seq.* The Attorney General is authorized by
4 California Business and Professions Code § 17206 to obtain civil penalties of up to \$2,500 for
5 each violation of § 17200. These penalties are “cumulative to each other and to the remedies or
6 penalties available under all other laws of this state.” Cal. Bus. & Prof. Code § 17205.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, the State of California requests that the Court enter judgment in favor of
9 the State of California and against all Defendants, jointly and severally, as follows:

10 **On the First Cause of Action**

11 1. That the Court makes such orders or judgements as may be necessary, including
12 injunctive and equitable relief, to prevent each of the Defendants, their successors, agents,
13 representatives, employees, assigns and all persons who act in concert with Defendants, from
14 violating the PACT Act, 18 U.S.C. § 1716E.

15 2. That the Court assess civil penalties against Defendants under the authority of 18
16 U.S.C. § 1716E(d) in the amount equal to 10 times the retail value of nonmailable tobacco
17 products, including all federal, state, and local taxes, mailed in violation of 18 U.S.C. § 1716E(a).

18 3. That the Court orders damages against Defendants equal to the amount of unpaid
19 taxes on tobacco products mailed in violation of 18 U.S.C. § 1716E to addressees in California
20 under the authority of 18 U.S.C. § 1716E(h)(1).

21 4. That the Court orders other appropriate relief with respect to Defendants’ violations
22 of 18 U.S.C. § 1716E under the authority of 18 U.S.C. § 1716E(h)(1).

23 **On the Second Cause of Action**

24 1. That the Court makes such orders or judgements as may be necessary, including
25 injunctive and equitable relief, to prevent each of the Defendants, their successors, agents,
26 representatives, employees, assigns and all persons who act in concert with Defendants, from
27 violating the PACT Act, 15 U.S.C. §§ 375–378.

28

1 2. That the Court orders civil penalties, in an amount according to proof, against
2 Defendants for violations of 15 U.S.C. § 376a under the authority of 15 U.S.C. § 377(b)(1)(A).

3 3. That the Court orders other appropriate relief with respect to Defendants' violations
4 of 15 U.S.C. § 376a under the authority of 15 U.S.C. § 378(c)(1)(A).

5 **On the Third Cause of Action**

6 1. That the Court makes such orders or judgments as may be necessary, including
7 injunctive and equitable relief, to prevent Defendants, their successors, agents, representatives,
8 employees, assigns and all persons who act in concert with Defendants, from violating California
9 Revenue and Taxation Code § 30101.7.

10 2. That the Court assesses a civil penalty against Defendants for violations of California
11 Revenue and Taxation Code § 30101.7 under the authority and pursuant to the schedule set forth
12 in California Revenue and Taxation Code § 30101.7(g).

13 3. That the California Attorney General recover under California Code of Civil
14 Procedure § 1021.8 all costs of investigating and prosecuting the action, including expert fees,
15 reasonable attorney's fees, and costs.

16 **On the Fourth Cause of Action**

17 1. That the Court makes such orders or judgments as may be necessary, including
18 injunctive and equitable relief, to prevent Defendants, their successors, agents, representatives,
19 employees, assigns and all persons who act in concert with Defendants, from violating the
20 STAKE Act, Cal. Bus. & Prof. Code §§ 22950-22964.

21 2. That the Court assesses a civil penalty, in an amount according to proof, against
22 Defendants for each violation of California Business and Professions Code § 22958 under the
23 authority and pursuant to the schedule of civil penalties set forth in California Business and
24 Professions Code § 22958(a)(1).

25 3. That the Court assesses a civil penalty, in an amount according to proof, against
26 Defendants for each violation of California Business and Professions Code § 22963 under the
27 authority and pursuant to the schedule of civil penalties set forth in California Business and
28 Professions Code § 22963(f).

1 4. That the California Attorney General recover under California Code of Civil
2 Procedure § 1021.8 all costs of investigating and prosecuting the action, including expert fees,
3 reasonable attorney's fees, and costs.

4 **On the Fifth Cause of Action**

5 1. That the Court makes such orders or judgments as may be necessary, including
6 preliminary and permanent injunctive and ancillary relief, to prevent Defendants, their successors,
7 agents, representatives, employees, assigns and all persons who act in concert with Defendants,
8 from engaging in unfair competition, as this term is defined in California Business and
9 Professions Code § 17200, or as may be necessary to restore to any person in interest any money
10 or property, real or personal, under the authority of California Business and Professions Code
11 § 17203.

12 2. That the Court assesses a civil penalty of up to \$2,500, in an amount according to
13 proof, against each Defendant for each violation of California Business and Professions Code
14 § 17200 under the authority of California Business and Professions Code § 17206.

15 **On All Causes of Action**

16 1. That the State of California receive all other relief to which it is legally entitled; and

17 2. That the Court awards such other relief that this Court deems just, proper, and
18 equitable.

19 Dated: December 14, 2023

Respectfully submitted,

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