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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

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

16 Plaintiff,

17 v.

18 **E-JUICE VAPOR, INC.,
19 FLAWLESS NEW 2020 LLC, HIND
MALIK, ALA ABUFARIE in their
20 official capacity as Chief Executive
Officer, Chief Financial Officer,
21 Managing Member, and Director,**

22 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
2 CALIFORNIA, by and through its Attorney General, Rob Bonta, and for its claims
3 against Defendants, states and alleges, on knowledge as to its own actions, and
4 otherwise upon information and belief, as follows:

5 **PRELIMINARY STATEMENT**

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

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

21 **JURISDICTION**

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

26 4. This Court also has subject matter jurisdiction pursuant to 15 U.S.C.
27 § 378(a), 18 U.S.C. § 1716E(h), and 28 U.S.C. § 1339.
28

1 Valley, California 92708. Defendant E-juice Vapor offers for sale, sells, and/or
2 distributes tobacco products directly to persons in California and nationwide
3 through its website www.ejuicevapor.com.

4 11. Defendant Flawless New 2020 LLC (d/b/a Flawless Vape Distribution
5 and/or Flawless Vape Wholesale) (hereinafter “Flawless New 2020”) is a limited
6 liability company that is organized in California (entity number 202034610199) and
7 has its principal business address registered at 1610 E. Orangethorpe Avenue,
8 Fullerton, California 92831. Defendant Flawless New 2020 offers for sale, sells,
9 and/or distributes tobacco products to persons in California and nationwide through
10 its website www.flawlessvapedistro.com.

11 12. According to the corporate statement of information Defendant E-juice
12 Vapor filed with the California Secretary of State (“SOS”) on December 29, 2022,
13 Defendant Hind Malik is Chief Executive Officer, Chief Financial Officer,
14 Secretary, and Director of Defendant E-juice Vapor. According to the statement of
15 information Defendant E-juice Vapor filed with the SOS on November 12, 2019,
16 prior to December 29, 2022, Defendant Hind Malik was Secretary of E-juice Vapor.
17 According to the statements of information Defendant Flawless New 2020 filed
18 with the SOS on January 10, 2021 and July 26, 2023, Defendant Hind Malik is
19 Managing Member of Flawless New 2020.

20 13. According to the corporate statement of information Defendant E-juice
21 Vapor filed with the SOS on November 12, 2019, Defendant Ala Abufarie was
22 Chief Executive Officer, Chief Financial Officer, and Director of E-juice Vapor,
23 until E-juice Vapor filed an updated statement of information on December 29,
24 2022, which lists Hind Malik as the only officer and director of E-juice Vapor.

25 14. At all relevant times, each of the Defendants was acting as an agent,
26 servant, assignee, representative, partner, joint venture partner, co-conspirator, or
27 employee of the other Defendants, and, in doing the acts alleged herein, was acting
28 within the course and scope of said agency, service, assignment, representation,

1 partnership, joint venture, conspiracy, or employment. Due to the relationship
2 between the Defendants, each of the Defendants has knowledge or constructive
3 notice of the acts of each of the other Defendants.

4 15. In committing the acts and omissions alleged herein, each of the
5 Defendants caused, aided, abetted, facilitated, encouraged, authorized, permitted
6 and/or ratified the wrongful acts and omissions of the other Defendants.

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

12 **RELEVANT STATUTORY BACKGROUND AND LEGAL FRAMEWORK**

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

23
24 ¹ CDC, *Diseases and Death* (July 29, 2022), <https://rb.gy/k7d8k0>, last
25 accessed Dec. 13, 2023; CDC, State Fact Sheets (February 14, 2023),
<https://rb.gy/pau8fu>, last accessed Dec. 13, 2023.

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

28 ³ *Id.*
⁴ CDC, *Youth Data* (November 2, 2023), <https://rb.gy/w1ygh9>, last accessed
Dec. 13, 2023.

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

13 19. On the federal level, prior to the explosion of e-cigarette youth use,
14 Congress enacted the Prevent All Cigarette Trafficking Act of 2009 (“PACT Act”),
15 15 U.S.C. § 375-378 and 18 U.S.C. § 1716E, to, among other things, “prevent and
16 reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal
17 Internet or contraband sales” (PACT Act, March 31, 2010, P.L. 111-154, § 1(c)(6),
18 124 Stat. 1087, 1088); “make it more difficult for cigarette and smokeless tobacco
19 traffickers to engage in and profit from their illegal activities” (*see id.* at § 1(c)(4));
20 and “require Internet and other remote sellers of cigarettes and smokeless tobacco
21 to comply with the same laws that apply to law-abiding tobacco retailers” (*see id.* at
22 § 1(c)(1)).

23 20. Congress specifically found that “the sale of illegal cigarettes and
24 smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes
25 it cheaper and easier for children to obtain tobacco products” (P.L. 111-154,
26 § 1(b)(4), 124 Stat. 1087); that “unfair competition from illegal sales of cigarettes
27

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

1 and smokeless tobacco is taking billions of dollars of sales away from law-abiding
2 retailers throughout the United States” (*id.* at § 1(b)(6)); and that “the intrastate sale
3 of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect
4 on interstate commerce” (*id.* at § 1(b)(10)).

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

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

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

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

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

⁷ Under the PACT Act, the term “delivery seller” means a person who
“makes a delivery sale.” 15 U.S.C. § 375(6). The term “delivery sale” means any

- 1 (1) The shipping requirements set forth in 15 U.S.C. § 376a(b). 15 U.S.C.
- 2 § 376a(a)(1);
- 3 (2) The recordkeeping requirements set forth in 15 U.S.C. § 376a(c). 15
- 4 U.S.C. § 376a(a)(2);
- 5 (3) “[A]ll State, local, tribal, and other laws generally applicable to sales
- 6 of cigarettes or smokeless tobacco as if the delivery sales occurred
- 7 entirely within the specific State and place,” including laws imposing:
- 8 excise taxes; licensing and tax-stamping requirements; restrictions on
- 9 sales to minors; and other payment obligations or legal requirements
- 10 relating to the sale, distribution, or delivery of cigarettes or smokeless
- 11 tobacco. 15 U.S.C. § 376a(a)(3); and
- 12 (4) The tax collection requirements set forth in 15 U.S.C. § 376a(d). 15
- 13 U.S.C. § 376a(a)(4).

14 25. Also, on the federal level, every new tobacco product is subject to the
15 federal Food and Drug Administration’s (“FDA”) premarket review pursuant to 21
16 U.S.C. § 387j(a)(2), and must receive an order from the FDA under 21 U.S.C.
17 § 387j(c)(1)(A)(i) authorizing introduction or delivery for introduction into
18 interstate commerce of the new tobacco product.⁸ Under federal law, unapproved

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

⁸ Under the federal Food, Drug, and Cosmetic Act, the term “tobacco
product” means “any product made or derived from tobacco, or containing nicotine
from any source, that is intended for human consumption, including any
component, part, or accessory of a tobacco product (except for raw materials other
than tobacco used in manufacturing a component, part, or accessory of a tobacco
product).” 21 U.S.C. § 321(rr)(1). The term “new tobacco product” means: (1) “any
tobacco product (including those products in test markets) that was not

1 tobacco products are considered adulterated pursuant to 21 U.S.C. § 387b(6)(A). It
2 is forbidden to receive, deliver, or proffer for delivery for pay or otherwise
3 adulterated tobacco products in interstate commerce. 21 U.S.C. § 331(c). To date,
4 the FDA has issued marketing orders approving only 23 e-cigarette products and
5 none of them are flavored tobacco products.⁹ See Exhibit A. As the FDA recently
6 explained in connection with a separate enforcement action, adulterated “products
7 do not have the required marketing authorization from the FDA. To date, the FDA
8 has authorized 23 tobacco-flavored e-cigarette products and devices. These are the
9 only e-cigarette products that currently may be lawfully sold in the U.S.”¹⁰

10 26. In California, the State’s legislature enacted a comprehensive statewide
11 tobacco control program designed to protect the public, particularly youth, from
12 exposure to these dangerous and addictive products.

13 27. The California legislature found that “reducing and eventually
14 eliminating the illegal purchase and consumption of tobacco products by any person
15 under 21 years of age is critical to ensuring the long-term health of our state’s
16 citizens.” Cal. Bus. & Prof. Code § 22951. As of June 9, 2016, the Stop Tobacco
17 Access to Kids Enforcement Act (“STAKE Act”), Cal. Bus. & Prof. Code
18 §§ 22950-22964, prohibits the sale, giving away, or furnishing of tobacco products
19 to any person under 21 years of age, *see* Cal. Bus. & Prof Code §§ 22958(a)(1),
20 22963(a), and imposes age verification and other requirements applicable to remote
21

22 commercially marketed in the United States as of February 15, 2007”; or (2) “any
23 modification (including a change in design, any component, any part, or any
24 constituent, including a smoke constituent, or in the content, delivery or form of
25 nicotine, or any other additive or ingredient) of a tobacco product where the
26 modified product was commercially marketed in the United States after February
27 15, 2007.” 21 U.S.C. § 387j(a)(1).

28 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/7kfhn1>, last accessed Dec. 13, 2023.

¹⁰ See FDA, *FDA Inspection Blitz Leads to More Than 180 Warning Letters to Retailers 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 sales of tobacco products to persons in California, *see* Cal. Bus. & Prof. Code
2 § 22963.

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

10 29. As in other jurisdictions, these requirements were originally limited to
11 cigarettes and other tobacco products, but have now been extended to reach e-
12 cigarettes as well. In November 2016, California voters approved the California
13 Healthcare, Research and Prevention Tobacco Tax Act of 2016 (Proposition 56),
14 which, among other things, amended the definition of tobacco products to include
15 e-cigarettes. Cal. Rev. & Tax. Code § 30121(b). Effective April 1, 2017, electronic
16 cigarettes, as defined in Cal. Rev. & Tax. Code § 30121(c), became subject to
17 California’s tobacco excise tax imposed under the California Cigarette and Tobacco
18 Products Tax Law, Cal. Rev. & Tax. Code §§ 30001-30483.

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

26 31. California also has a comprehensive tobacco licensing scheme, requiring
27 licenses for manufacturers, importers, distributors, wholesalers, and retailers of
28 tobacco products. Cal. Bus. & Prof. Code §§ 22970–22995. This licensing scheme

1 serves to ensure collection of taxes that provide funding for vital local and state
2 programs, including health services, tobacco prevention and cessation campaigns,
3 cancer research, and education programs, *see* Cal. Bus. & Prof. Code § 22970.1,
4 and also as a mechanism to hold tobacco retailers that sell tobacco products to
5 minors accountable through imposition of extensive penalties and license
6 suspensions and revocations, *see* Cal. Bus. & Prof. Code § 22958.

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

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

16 34. In October 2021, the California legislature enacted the Healthy Outcomes
17 and Prevention Education (HOPE) Act, Cal. Rev. & Tax. Code § 31000-31008.
18 Effective July 1, 2022, all retailers that sell e-cigarettes to persons in California are
19 required to register with the California Department of Tax and Fee Administration
20 (“CDTFA”), California’s business tax administration and licensing agency, for a
21 California electronic cigarette excise tax (hereinafter “e-cigarette excise tax”)
22 permit, *see* Cal. Rev. & Tax. Code § 31002(f); collect e-cigarette excise tax from
23 California purchasers, *see* Cal. Rev. & Tax. Code § 31002(a)(2); remit e-cigarette
24 excise tax to CDTFA quarterly on or before the last day of the month following
25 each calendar quarter, *see* Cal. Rev. & Tax. Code § 31002(d)(1); file a return on or
26 before the last day of the month following each quarterly period for the preceding
27 quarterly period, *see* Cal. Rev. & Tax. Code § 31002(d)(2)(A); and for each retail
28 sale of an electronic cigarette, provide a purchaser with a receipt or other document

1 that sets out and separately identifies the “California Electronic Cigarette Excise
2 Tax” and the amount paid by the purchaser, *see* Cal. Rev. & Tax. Code § 31003.¹¹

3 **ALLEGATIONS**

4 **I. DEFENDANTS ENGAGE IN UNLAWFUL BUSINESS ACTS AND PRACTICES**

5 35. Despite the comprehensive regime regulating the sales of tobacco
6 products, particularly sales of these products through the Internet, Defendants have
7 failed to bring themselves into compliance with legal requirements even after being
8 warned by state and federal regulators time and time again.

9 **A. Defendants Sell Tobacco Products to Underage Consumers**

10 36. In November 2019, the California Office of the Attorney General
11 (“OAG”) received an unsolicited public complaint that Defendant E-juice Vapor
12 sells tobacco products to persons through its websites without verifying its
13 purchasers’ true age.

14 37. In December 2019, OAG became aware of another consumer complaint
15 containing sales to minors allegations against E-juice Vapor.

16 38. In March 2020, OAG issued a warning letter to Defendant E-juice Vapor
17 demanding compliance with the STAKE Act age verification requirements
18 applicable to remote sales of tobacco products. *See* Exhibit B.

19
20 ¹¹ For the purposes of the HOPE Act, the term “electronic cigarette” means
21 “any of the following:

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

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

39. In August 2020, the State of Washington filed a complaint against E-juice Vapor, containing similar allegations that E-juice Vapor sold tobacco products to minors in Washington without complying with Washington's age verification laws applicable to delivery sales of tobacco products. *See The State of Washington v. E-juice Vapor, Inc.*, No. 20-2-12563-6-SEA (Wash. Super. Ct. August 13, 2020); *see* Exhibit C. The complaint alleged, among other things, that E-juice Vapor accepted orders from persons located in Washington without verifying their true age and identity. *Id.* at 6-8. According to the complaint, Defendant E-juice Vapor delivered nicotine products to consumers in Washington without disclosing in the shipping documents that the shipment contains vapor products. *Id.* at 8. Washington's complaint also alleged that E-juice Vapor engaged in selling of vapor products without obtaining a delivery sale license required in Washington. *Id.* The complaint further alleged that E-juice Vapor failed to respond to a civil investigative demand from the Washington's Attorney General seeking information relevant to the investigation of E-juice Vapor. *Id.* at 8-9.

40. In June 2021, the State of Washington and Defendant E-juice Vapor resolved the action by executing a stipulated judgment wherein Defendant E-juice Vapor agreed to pay an assessed civil penalty in the amount of \$375,000 for its violations. *See* Exhibit D.

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

41. Defendants also disregard federal laws applicable to the sale of tobacco products.

42. In September 2018, the FDA issued a warning letter to Defendant E-juice Vapor stating that the company was violating federal law by offering for sale to consumers through its website tobacco products with graphic images that imitate food products typically marketed toward and/or appealing to children, and offering for sale adulterated and misbranded tobacco products. *See* Exhibit E.

43. More recently, on May 31, 2023, the FDA issued another warning letter to E-juice Vapor for offering for sale or distribution to consumers e-cigarettes without applicable marketing authorization orders from the agency, particularly “Puff Bar” disposable e-cigarettes. *See* Exhibit F.

44. Despite these warnings, Defendants continue to offer for sale “Puff Bar” disposable e-cigarettes through their website, www.flawlessvapedistro.com.¹² Defendants also offer for sale and sell through their websites, www.ejuicevapor.com and www.flawlessvapedistro.com, unapproved new tobacco products, including disposable e-cigarettes, in a large variety of fruit and dessert flavors. The new tobacco products Defendants offer for sale and sell are precisely the kinds of products (*e.g.*, disposable e-cigarettes such as Elf Bar) that recent studies have specifically associated with youth use.¹³

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

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

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

46. Defendants continue to violate state and federal laws regulating the sale of tobacco products in California, particularly the PACT Act, the STAKE Act, California delivery sales provisions, and the California Unfair Competition Law.

¹² Flawless Vape Distro, Puff Bar Disposable - (10 Pack), <https://rb.gy/f5f8js>, last accessed Dec. 13, 2023.

¹³ 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 47. In June and October 2023, undercover special agents of the California
2 Department of Justice (“DOJ”) accessed Defendant E-juice Vapor’s website,
3 www.ejuicevapor.com, and ordered several flavored e-cigarette products that have
4 not received FDA authorization, including Elf Bar and Flawless Switch flavored
5 disposable e-cigarettes.

6 48. In June and October 2023, Defendant E-juice Vapor sent emails to the
7 DOJ special agents’ undercover email account confirming the orders for flavored e-
8 cigarettes. Defendant E-juice Vapor’s email itemized charges for e-cigarettes, but
9 did not include any statement or separate charge for California e-cigarette excise
10 tax required under Revenue and Taxation Code § 31003.

11 49. After placing the orders on Defendant E-juice Vapor’s website, the DOJ
12 special agents did not receive from Defendant E-juice Vapor any telephone call
13 confirming the order prior to its shipping the tobacco products, as required under
14 California Business and Professions Code § 22963(b)(3).

15 50. In July and October 2023, Defendant E-juice Vapor delivered packages
16 containing flavored e-cigarettes using USPS mails to the DOJ special agents’
17 California address. The packages labels did not include any statement that the
18 packages contain tobacco products, as required under California Business and
19 Professions Code § 22963(b)(5).

20 51. Defendant E-juice Vapor delivered the packages to the DOJ special
21 agents’ California address without obtaining any signature or government
22 identification at the time of the delivery of the packages, as required under
23 California Business and Professions Code § 22963(b)(6).

24 52. After receiving the packages, the DOJ special agents reviewed pre-paid
25 visa card billing charges relating to the purchases of the e-cigarettes from
26 Defendant E-juice Vapor’s website, www.ejuicevapor.com. For the purchases from
27 Defendant E-juice Vapor, the pre-paid visa card statement showed a charge from
28 “FLAWLESS VAPE WHOLESALE”. There was no writing in Defendants’ billing

1 charge identifying the purchased items as tobacco products, as required under
2 California Business and Professions Code § 22963(b)(2).

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

5 53. Defendants illegally use USPS mails to ship e-cigarettes to persons in
6 California.

7 54. Defendant E-juice Vapor states on its websites, www.ejuicevapor.com,
8 that it ships e-cigarettes using USPS mails.¹⁴ See Exhibit G.

9 **Where Do We Ship?**

10 We proudly ship to most states in the USA and APO/FPO addresses. At
11 this time we do not offer international shipping.

12 **Estimated Transit Times**

- 13 • USPS First Class Mail "snail mail" 2-7 business days* in transit
- 14 • *The cheapest option comes with a cost. Tracking is not updated*
15 *all the time with this option. There is no insurance on First*
16 *Class, so if the package is lost, YOU must contact the postal*
17 *carrier.*
- 17 • USPS Priority (standard shipping) 2-4 business days* in transit
- 18 • APO/FPO Addresses: 14-21 business days

19 55. Defendant Flawless New 2020 states on its website,
20 www.flawlessvapedistro.com, that it ships e-cigarettes using USPS mails. See
21 Exhibit H.¹⁵

22 ///

23 ///

24 ///

25 ///

26 _____
27 ¹⁴ See E-juice Vapor, *Shipping Policy*, <https://rb.gy/c75u14>, last accessed
28 Dec. 13, 2023.

¹⁵ See Flawless Vape Distro, *Shipping Policy*, <https://rb.gy/pcxyya>, last
accessed Dec. 13, 2023.

Where Do We Ship?

We proudly ship to most states in the USA, APO/FPO addresses.

For international destination, we are currently shipping to most of the countries.

Estimated Transit Times

- USPS First Class Mail "snail mail" 2-7 business days* in transit
 - *The cheapest option comes with a cost. Tracking is not updated all the time with this option. There is no insurance on First Class, so if the package is lost, YOU must contact the postal carrier.*
- USPS Priority (standard shipping) 2-4 business days* in transit
- APO/FPO Addresses: 14-21 business days

FlawlessVapeDistro is not responsible for damaged, lost, or stolen packages. Once the package (s) leaves our facility, USPS must be contacted regarding questions or concerns for shipping.

56. As confirmed through the DOJ special agents' June and October 2023 undercover purchases from Defendants' website, www.ejuicevapor.com, Defendants sold flavored e-cigarettes and delivered these products to the California address using USPS mails, despite such deliveries being prohibited under 18 U.S.C. § 1716E(a).

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

57. Defendants also fail to comply with California's delivery sales statute and licensing requirements.

58. As a result of the DOJ special agents' June and October 2023 undercover purchases from Defendants' website, www.ejuicevapor.com, Defendants delivered to the DOJ special agents' California address packages containing flavored e-cigarettes. The labels on the packages identified shipment from "Shipping Department" at 1610 E. Orangethorpe Avenue, Fullerton, CA 92831, which is Defendants' principal business address.

59. According to CDTFA official licensing records, at all relevant times and continuing to the present, neither Defendant E-juice Vapor nor Defendant Flawless

1 New 2020 hold a tobacco retailer license for their principal business location 1610
2 E. Orangethorpe Avenue, Fullerton, California 92831.

3 60. Since at least February 2021 and continuing to the present, Defendant
4 Flawless New 2020 operates as a tobacco products distributor, as defined in
5 California Revenue and Taxation Code § 30011, from its principal business address
6 1610 E. Orangethorpe Avenue, Fullerton, CA 92831. California law prohibits a
7 distributor from selling tobacco products to an unlicensed retailer, wholesaler,
8 distributor, or any other unlicensed person. Cal. Bus. & Prof. Code
9 § 22980.1(b)(1).

10 61. Upon information and belief, since at least February 2021 and continuing
11 to the present, Defendant Flawless New 2020 sells tobacco products to Defendant
12 E-juice Vapor and other unlicensed persons in California.

13 **FIRST CAUSE OF ACTION**

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

15 **AGAINST ALL DEFENDANTS**

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

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

21 64. Since at least March 2021 and continuing to the present, Defendants
22 deposit in and deliver through USPS mails nonmailable e-cigarettes in violation of
23 18 U.S.C. § 1716E(a).

24 65. The PACT Act authorizes a state, through its attorney general, to bring a
25 civil action in a United States district court to obtain appropriate relief with respect
26 to a violation of 18 U.S.C. § 1716E. *Id.* § 1716E(h)(1). “Appropriate relief includes
27 injunctive and equitable relief and damages equal to the amount of unpaid taxes on
28 tobacco products mailed in violation of this section [18 U.S.C. § 1716E] to

1 addressees in that State, locality, or tribal land.” *Id.* The remedies available under
2 18 U.S.C. § 1716E(h) are in addition to any other remedies available under federal,
3 state, local, or tribal, or other laws. *Id.* § 1716E(h)(4).

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

9 **SECOND CAUSE OF ACTION**

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

11 **AGAINST ALL DEFENDANTS**

12 67. Every delivery seller, as this term is defined in 15 U.S.C. § 375(6), is
13 subject to the PACT Act requirements. 15 U.S.C. § 376a. For any shipping package
14 containing e-cigarettes, the PACT Act requires every delivery seller to include on
15 the bill of lading, if any, and on the outside of the shipping package, on the same
16 surface as the delivery address, a clear and conspicuous statement providing as
17 follows: “CIGARETTES/NICOTINE/SMOKELESS TOBACCO: FEDERAL
18 LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES,
19 AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-
20 STAMPING OBLIGATIONS”. *Id.* § 376a(b)(1).

21 68. Since at least March 2021 and continuing to the present, Defendants
22 operate as delivery sellers and make delivery sales, as this term is defined in 15
23 U.S.C. § 375(5), to consumers, as this term is defined in 15 U.S.C. § 375(4), in
24 California and nationwide.

25 69. Since at least March 2021 and continuing to the present, Defendants ship
26 and deliver e-cigarettes to California consumers in packages that do not contain the
27 label required under 15 U.S.C. § 376a(b)(1).
28

1 70. The PACT Act also provides that every delivery seller must use a method
2 of mailing or shipping e-cigarettes that requires: (1) “the purchaser placing the
3 delivery sale order, or an adult who is at least the minimum age required for the
4 legal sale or purchase of tobacco products, as determined by the applicable law at
5 the place of delivery, to sign to accept delivery of the shipping container at the
6 delivery address”, 15 U.S.C. § 376a(b)(4)(A)(ii)(I); and (2) “the person who signs
7 to accept delivery of the shipping container to provide proof, in the form of a valid,
8 government-issued identification bearing a photograph of the individual, that the
9 person is at least the minimum age required for the legal sale or purchase of tobacco
10 products, as determined by the applicable law at the place of delivery”, 15 U.S.C. §
11 376a(b)(4)(A)(ii)(II).

12 71. The PACT Act forbids a delivery seller from accepting an order from a
13 person without: “obtaining the full name, birth date, and residential address of that
14 person”, 15 U.S.C. § 376a(b)(4)(A)(iii)(I); and “verifying the information provided
15 in [15 U.S.C. § 376a(b)(4)(A)(iii)(I)], through the use of a commercially available
16 database or aggregate of databases, consisting primarily of data from government
17 sources, that are regularly used by government and businesses for the purpose of
18 age and identity verification and authentication, to ensure that the purchaser is at
19 least the minimum age required for the legal sale or purchase of tobacco products,
20 as determined by the applicable law at the place of delivery”, 15 U.S.C.
21 § 376a(b)(4)(A)(iii)(II).

22 72. Since at least March 2021 and continuing to the present, Defendants ship
23 and deliver e-cigarettes to California consumers without complying with mailing,
24 shipping, delivering, and age verification requirements of 15 U.S.C.
25 § 376a(b)(4)(A).

26 73. The PACT Act also requires every delivery seller of e-cigarettes to
27 comply with “all State, local, tribal, and other laws generally applicable to sales of
28 cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the

1 specific State and place,” including laws imposing: (1) excise taxes; (2) licensing
2 and tax-stamping requirements; (3) restrictions on sales to minors; and (4) other
3 payment obligations or legal requirements relating to the sale, distribution, or
4 delivery of e-cigarettes. 15 U.S.C. § 376a(a)(3).

5 74. Since at least March 2021 and continuing to the present, Defendants
6 make delivery sales of e-cigarettes in California without complying with all state
7 and federal laws generally applicable to sales of e-cigarettes as incorporated into
8 law and required by the PACT Act. 15 U.S.C. § 376a(a)(3). Namely:

9 a. Defendants do not comply with the STAKE Act by selling tobacco
10 products to California persons under 21 years of age in violation of
11 California Business and Professions Code §§ 22958(a)(1), and 22963(a);

12 b. Defendants do not comply with the STAKE Act by selling tobacco
13 products to persons in California without complying with all of the age
14 verification requirements of California Business and Professions Code
15 § 22963(b)(1).

16 c. Defendants violate California Business and Professions Code
17 § 22963(b)(2) by selling tobacco products to persons in California
18 without submitting to each credit card acquiring company sales
19 identification information in an appropriate form and format so that the
20 words “tobacco product” may be printed in the purchaser’s credit card
21 statement when a purchase of a tobacco product is made by credit card
22 payment.

23 d. Defendants violate California Business and Professions Code
24 § 22963(b)(3) by selling tobacco products to California persons without
25 making a telephone call after 5 p.m. to the purchaser confirming the
26 order prior to shipping the tobacco products.

27 e. Defendants do not comply with the HOPE Act by making retail
28 sales of e-cigarettes in California without complying with all of the

1 permit requirements imposed under California Revenue and Taxation
2 Code § 31002(f).

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

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

11 h. Defendants do not comply with the HOPE Act by making retail
12 sales of e-cigarettes in California without complying with all of the e-
13 cigarette excise tax collection requirements imposed under California
14 Revenue and Taxation Code § 31002(a)(2).

15 i. Defendants do not comply with the HOPE Act by making retail
16 sales of e-cigarettes in California without complying with all of the
17 receipt issuance and receipt statement requirements imposed under
18 California Revenue and Taxation Code § 31003.

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

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

28

1 l. Defendants do not comply with federal laws generally applicable to
2 sales of e-cigarettes, including legal requirements relating to the sale,
3 distribution, or delivery of e-cigarettes, particularly 18 U.S.C.
4 § 1716E(a), by depositing in and delivering through USPS mails
5 nonmailable e-cigarettes.

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

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

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

20 **THIRD CAUSE OF ACTION**

21 **VIOLATIONS OF DELIVERY SALES PROVISIONS OF THE CALIFORNIA**
22 **CIGARETTE AND TOBACCO PRODUCTS TAX LAW (CAL. REV. & TAX. CODE §**
23 **30101.7)**

24 **AGAINST ALL DEFENDANTS**

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

27 78. Every delivery seller, as this term is defined in California Revenue and
28 Taxation Code § 30101.7(c)(3), who engages in delivery sales, as this term is
defined in California Revenue and Taxation Code § 30101.7(c)(2), of tobacco

1 products, as this term is defined in California Revenue and Taxation Code
2 § 30121(b), to a person in California must fully comply with all of the requirements
3 of the PACT Act, 15 U.S.C. §§ 375-378. Cal. Rev. & Tax. Code § 30101.7(d)(1).

4 79. Since at least March 2021 and continuing to the present, Defendants
5 operate as delivery sellers in violation of California Revenue and Taxation Code §
6 30101.7(d)(1) by making delivery sales of e-cigarettes without complying with the
7 requirements of 15 U.S.C. § 376a.

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

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

17 82. At all relevant times and continuing to the present, Defendants operate as
18 a tobacco retailer, as this term is defined in California Business and Professions
19 Code § 22971(q).

20 83. At all relevant times and continuing to the present, Defendants sell
21 tobacco products to persons in California in violation of California Revenue and
22 Taxation Code § 30101.7(d)(2), without holding and maintaining a tobacco retailer
23 license for their principal business location 1610 E. Orangethorpe Avenue,
24 Fullerton, California 92831.

25 84. The California Attorney General may bring a civil action to enforce
26 against a person who violates California Revenue and Taxation Code § 30101.7
27 and, in addition to any other remedy provided by law, the court is authorized to
28

1 assess a civil penalty in accordance with the schedule set forth in California
2 Revenue and Taxation Code § 30101.7(g).

3 **FOURTH CAUSE OF ACTION**

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

5 **AGAINST ALL DEFENDANTS**

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

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

12 87. Upon information and belief, since at least November 2019, Defendants
13 sold tobacco products to California persons under 21 years of age.

14 88. The Attorney General is authorized to enforce the STAKE Act pursuant
15 to California Business and Professions Code § 22950.5(b), and to assesses civil
16 penalties under California Business and Professions Code § 22958(a)(1) against any
17 person, firm, or corporation that sells, gives, or in any way furnishes to another
18 person who is under 21 years of age, any tobacco, cigarette, cigarette papers, any
19 other instrument or paraphernalia that is designed for the smoking or ingestion of
20 tobacco, tobacco products, or any controlled substance.

21 89. In California, before enrolling a person as a customer, or distributing or
22 selling, or engaging in the nonsale distribution of the tobacco product, the
23 distributor or seller must verify that the purchaser or recipient of the product is 21
24 years of age or older by attempting to match the name, address, and date of birth
25 provided by the customer to information contained in records in a database of
26 individuals whose age has been verified to be 21 years or older by reference to an
27 appropriate database of government records. Cal. Bus. & Prof. Code
28 § 22963(b)(1)(A). As part of this age verification, in the case of a sale, the

1 distributor or seller of tobacco products is also required to verify that the billing
2 address on the check or credit card offered for payment by the purchaser matches
3 the address listed in the appropriate database of government records of individuals
4 whose age has been verified to be 21 years or older. *Id.*

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

15 91. Since at least November 2019 and continuing to the present, Defendants
16 sell tobacco products to persons in California through their websites without
17 complying with all of the age verification requirements of California Business and
18 Professions Code § 22963(b)(1).

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

22 93. Since at least November 2019 and continuing to the present, Defendants
23 sell and deliver tobacco products to persons in California without making a
24 telephone call after 5 p.m. to the purchaser confirming the order prior to shipping
25 the tobacco products.

26 94. Effective January 2020, California law requires sellers or distributors to
27 deliver tobacco products only in a container that is conspicuously labeled with the
28 words: "CONTAINS TOBACCO PRODUCTS: SIGNATURE OF PERSON 21

1 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY.” Cal. Bus. & Prof.
2 Code § 22963(b)(5).

3 95. Since at least January 2020 and continuing to the present, Defendants
4 deliver tobacco products to persons in California in packages or containers that do
5 not bear the label required under California Business and Professions Code
6 § 22963(b)(5).

7 96. Upon the delivery of the tobacco product to the recipient’s or purchaser’s
8 address, the seller, distributor, or nonsale distributor must obtaining the signature of
9 a person 21 years of age or older before completing the delivery. Cal. Bus. & Prof.
10 Code § 22963(b)(6).

11 97. Since at least January 2020 and continuing to the present, Defendants
12 deliver tobacco products to persons in California in violation of California Business
13 and Professions Code § 22963(b)(6) without obtaining the signature of a person 21
14 years of age or older before completing the delivery.

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

20 **FIFTH CAUSE OF ACTION**

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

23 **AGAINST ALL DEFENDANTS**

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

26 100. Since at least November 2019 and continuing to the present, Defendants
27 have engaged, and continue to engage in, aided and abetted and continue to aid and
28 abet, and conspired and continue to conspire to, engage in unfair competition, as

1 this term is defined in California Business and Professions Code § 17200.

2 Defendants' unfair acts and practices include, but are not limited to, the following:

3 a. Violating federal law, 18 U.S.C. § 1716E(a), by depositing in and
4 delivering through USPS mails nonmailable e-cigarettes.

5 b. Violating federal law, 15 U.S.C. § 376a(a)(3), by making delivery
6 sales of e-cigarettes without fully complying with all state and federal
7 laws generally applicable to sales of e-cigarettes, including legal
8 requirements relating to the sale, distribution, or delivery of e-cigarettes.

9 c. Violating federal law, 15 U.S.C. §§ 376a(a)(1), 376a(b)(1), by not
10 complying with package labeling requirements of 15 U.S.C.

11 § 376a(b)(1).

12 d. Violating federal law, 15 U.S.C. §§ 376a(a)(1), 376a(b)(4)(A), by
13 not complying with mailing, shipping, delivering, and age verification
14 requirements of 15 U.S.C. § 376a(b)(4)(A).

15 e. Violating California Revenue and Taxation Code § 30101.7(d)(1),
16 by engaging in delivery sales of tobacco products in California without
17 fully complying with all of the requirements of 15 U.S.C. § 376a.

18 f. Violating California Revenue and Taxation Code § 30101.7(d)(2),
19 by engaging in delivery sales of tobacco products in California without
20 obtaining and maintaining a separate tobacco retailer license for each
21 retail location as required under California Business and Professions
22 Code § 22972(a).

23 g. Violating California Business and Professions Code § 22980.2(a),
24 by engaging in retail sales of tobacco products without holding a separate
25 tobacco retailer license for each retail location as required under
26 California Business and Professions Code § 22972(a).

27 h. Violating California Business and Professions Code
28 § 22980.1(b)(1), by operating as a tobacco distributor or wholesaler and

1 selling tobacco products to a retailer, wholesaler, distributor, or any other
2 person who is not licensed pursuant to the California Cigarette and
3 Tobacco Products Licensing Act of 2003.

4 i. Violating the HOPE Act by making retail sales of e-cigarettes in
5 California without complying with all of the permit requirements
6 imposed under California Revenue and Taxation Code § 31002(f);

7 j. Violating the HOPE Act by making retail sales of e-cigarettes in
8 California without complying with all of the e-cigarette excise tax return
9 filing requirements imposed under California Revenue and Taxation
10 Code § 31002(d)(2)(A).

11 k. Violating the HOPE Act by making retail sales of e-cigarettes in
12 California without complying with all of the e-cigarette excise tax
13 remittance requirements imposed under California Revenue and Taxation
14 Code § 31002(d)(1).

15 l. Violating the HOPE Act by making retail sales of e-cigarettes in
16 California without complying with all of the e-cigarette excise tax
17 collection requirements imposed under California Revenue and Taxation
18 Code § 31002(a)(2).

19 m. Violating the HOPE Act by making retail sales of e-cigarettes in
20 California without complying with all of the receipt issuance and receipt
21 statement requirements imposed under California Revenue and Taxation
22 Code § 31003.

23 n. Violating the STAKE Act by selling tobacco products to California
24 persons under 21 years of age in violation of California Business and
25 Professions Code §§ 22958(a)(1), and 22963(a).

26 o. Violating the STAKE Act by selling tobacco products to persons in
27 California without complying with all of the age verification
28

1 requirements of California Business and Professions Code
2 § 22963(b)(1).

3 p. Violating the STAKE Act by selling tobacco products to persons in
4 California without submitting to each credit card acquiring company
5 sales identification information in an appropriate form and format so that
6 the words “tobacco product” may be printed in the purchaser’s credit
7 card statement when a purchase of a tobacco product is made by credit
8 card payment, as required under California Business and Professions
9 Code § 22963(b)(2).

10 r. Violating California Business and Professions Code § 22963(b)(3)
11 by selling tobacco products to California persons without making a
12 telephone call after 5 p.m. to the purchaser confirming the order prior to
13 shipping the tobacco products.

14 s. Violating the STAKE Act by selling tobacco products to persons in
15 California and delivering these products in containers that do not bear a
16 label required pursuant to California Business and Professions Code
17 § 22963(b)(5).

18 t. Violating California Business and Professions Code § 22963(b)(6)
19 by selling tobacco products to persons in California and delivering these
20 products to the recipients’ or purchasers’ addresses without obtaining the
21 signature of a person 21 years of age or older before completing the
22 delivery.

23 101. The California Attorney General is authorized by California Business
24 and Professions Code § 17204 to obtain injunctive relief to halt violations of, and
25 enforce compliance with, California Business and Professions Code § 17200 *et seq.*
26 The Attorney General is authorized by California Business and Professions Code
27 § 17206 to obtain civil penalties of up to \$2,500 for each violation of § 17200.
28

1 These penalties are “cumulative to each other and to the remedies or penalties
2 available under all other laws of this state.” Cal. Bus. & Prof. Code § 17205.

3 **PRAYER FOR RELIEF**

4 102. **WHEREFORE**, the State of California requests that the Court enter
5 judgment in favor of the State of California and against all Defendants, jointly and
6 severally, as follows:

7 **On the First Cause of Action**

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

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

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

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

23 **On the Second Cause of Action**

24 1. That the Court makes such orders or judgements as may be necessary,
25 including injunctive and equitable relief, to prevent each of the Defendants,
26 their successors, agents, representatives, employees, assigns and all persons
27 who act in concert with Defendants, from violating the PACT Act, 15 U.S.C.
28 §§ 375–378.

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

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

On the Third Cause of Action

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

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

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

On the Fourth Cause of Action

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

2. That the Court assesses a civil penalty, in an amount according to proof, against Defendants for each violation of California Business and Professions

1 Code § 22958 under the authority and pursuant to the schedule of civil
2 penalties set forth in California Business and Professions Code § 22958(a)(1).

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

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

10 **On the Fifth Cause of Action**

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

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

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On All Causes of Action

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

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

Dated: December 14, 2023

Respectfully submitted,

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