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7 *of California*

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF KERN - METROPOLITAN DIVISION**

10 *****

11
12 **THE PEOPLE OF THE STATE OF**
13 **CALIFORNIA,**

14 **Plaintiff,**

15 **vs.**

16 **DOLGEN CALIFORNIA, LLC, a Tennessee**
17 **Limited Liability Company; DG STRATEGIC**
18 **II, LLC, a Tennessee Limited Liability**
19 **Company; and DG STRATEGIC VII, LLC, a**
Tennessee Limited Liability Company,

20 **Defendants.**

Case No.:
KCDA File No. HM-4112

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES
AND OTHER EQUITABLE RELIEF**

(Health & Saf. Code, Div. 20, Chapters 6.5
and 6.95; Bus. & Prof. Code § 17200, *et*
seq.)

21 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA ("People"), based on
22 information and belief, alleges as follows:

23 **PLAINTIFF**

24 1. The People bring this action and by and through LISA S. GREEN, District
25 Attorney of Kern County, by JOHN T. MITCHELL, Deputy District Attorney; GREGORY D.
26 TOTTEN, District Attorney of Ventura County, by MITCHELL F. DISNEY, Senior Deputy
27 District Attorney; TODD D. RIEBE, District Attorney of Amador County, by ROBERT E.
28 NICHOLS, Deputy District Attorney; MICHAEL L. RAMSEY, District Attorney of Butte

1 County, by ROBERT E. NICHOLS, Deputy District Attorney; BARBARA M. YOOK, District
2 Attorney of Calaveras County, by ROBERT E. NICHOLS, Deputy District Attorney;
3 MATTHEW BEAUCHAMP, District Attorney of Colusa County, by ROBERT E. NICHOLS,
4 Deputy District Attorney; MARK A. PETERSON, District Attorney of Contra Costa County, by
5 STACEY GRASSINI, Deputy District Attorney; LISA A. SMITTCAMP, District Attorney of
6 Fresno County, by SABRINA D. ASHJIAN, Deputy District Attorney; DUANE STEWART,
7 District Attorney of Glenn County, by ROBERT E. NICHOLS, Deputy District Attorney; JEFF
8 W. REISIG, District Attorney of Yolo County, by DAVID J. IREY, Assistant Chief Deputy
9 District Attorney; KEITH FAGUNDES, District Attorney of Kings County, by ROBERT E.
10 NICHOLS, Deputy District Attorney; DON A. ANDERSON, District Attorney of Lake County,
11 by ROBERT E. NICHOLS, Deputy District Attorney; STACEY L. MONTGOMERY, District
12 Attorney Lassen County, by ROBERT E. NICHOLS, Deputy District Attorney; JACKIE
13 LACEY, District Attorney of Los Angeles County, by DANIEL J. WRIGHT, Deputy District
14 Attorney; DAVID LINN, District Attorney of Madera County, by ROBERT E. NICHOLS,
15 Deputy District Attorney; LARRY D. MORSE II, District Attorney of Merced County, by
16 ROBERT E. NICHOLS, Deputy District Attorney; DEAN D. FLIPPO, District Attorney of
17 Monterey County, by ANNE M. MICHAELS, Assistant District Attorney; CLIFFORD
18 NEWELL, District Attorney of Nevada County, by ROBERT E. NICHOLS, Deputy District
19 Attorney; TONY RACKAUCKAS, District Attorney of Orange County, by WILLIAM G.
20 FALLON, Deputy District Attorney; R. SCOTT OWENS, District Attorney of Placer County, by
21 JANE CRUE, Deputy District Attorney; DAVID HOLLISTER, District Attorney of Plumas
22 County; MIKE HESTRIN, District Attorney of Riverside County, by DALE C. HOY II, Senior
23 Deputy District Attorney; ANNE MARIE SCHUBERT, District Attorney of Sacramento County,
24 by DOUGLAS WHALEY, Supervising Deputy District Attorney; MICHAEL A. RAMOS,
25 District Attorney of San Bernardino County, by DOUGLAS POSTON, Deputy District Attorney;
26 TORI VERBER SALAZAR, District Attorney of San Joaquin County, by CELESTE KAISCH,
27 Deputy District Attorney; JOYCE E. DUDLEY, District Attorney of Santa Barbara County, by
28 ROBERT E. NICHOLS, Deputy District Attorney; STEPHANIE A. BRIDGETT, District

1 Attorney of Shasta County, by ANAND B. JESRANI, Deputy District Attorney; J. KIRK
2 ANDRUS, District Attorney of Siskiyou County; KRISHNA A. ABRAMS, District Attorney of
3 Solano County, by DIANE M. NEWMAN, Deputy District Attorney; JILL R. RAVITCH,
4 District Attorney of Sonoma County, by ANN GALLAGHER-WHITE, Deputy District Attorney;
5 BIRGIT A. FLADAGER, District Attorney of Stanislaus County, by RICHARD B. MURY III,
6 Deputy District Attorney; AMANDA HOPPER, District Attorney of Sutter County, by ROBERT
7 E. NICHOLS, Deputy District Attorney; GREGG COHEN, District Attorney of Tehama County,
8 by ROBERT E. NICHOLS, Deputy District Attorney; ERIC HERYFORD, District Attorney of
9 Trinity County; TIM WARD, District Attorney of Tulare County, by DARLA J. KAISER, Senior
10 Deputy District Attorney; LAURA L. KRIEG, District Attorney of Tuolumne County, by
11 ROBERT E. NICHOLS, Deputy District Attorney; PATRICK MCGRATH, District Attorney of
12 Yuba County, by ROBERT E. NICHOLS, Deputy District Attorney; MAGGIE FLEMING,
13 District Attorney of Humboldt County, by ROBERT E. NICHOLS, Deputy District Attorney
14 (collectively "Prosecutors").

15 2. Pursuant to Health and Safety Code section 25182, the Prosecutors may bring a
16 civil action in the name of the People of the State of California to enjoin any violation of Chapter
17 6.5 of Division 20 of the Health and Safety Code (hereinafter "Chapter 6.5") and to seek civil
18 penalties for violations of the provisions of Chapter 6.5.

19 3. Pursuant to Health and Safety Code sections 25515.6 and 25515.7, the Prosecutors
20 may bring a civil action in the name of the People of the State of California to enjoin any
21 violation of Health and Safety Code sections 25504 to 25508.2, inclusive, or section 25511 of
22 Chapter 6.95 of Division 20 of the Health and Safety Code (hereinafter "Chapter 6.95").

23 4. Pursuant to Business and Professions Code sections 17203, 17204, and 17206, the
24 Prosecutors may bring a civil action in the name of the of the State of California to enjoin any
25 person who engages, has engaged, or proposes to engage in unfair competition, as defined in
26 California Business and Professions Code section 17200, and to seek civil penalties for each act
27 of unfair competition.
28

1 5. Plaintiff brings this action without prejudice to any other action or claim which
2 Plaintiff may have based on separate, independent and unrelated violations arising out of matters
3 or allegations that are not set forth in this Complaint.

4 **DEFENDANTS AND THE FACILITIES**

5 6. Defendants DOLGEN CALIFORNIA, LLC, a Tennessee Limited Liability
6 Company, DG STRATEGIC II, LLC, a Tennessee Limited Liability Company and DG
7 STRATEGIC VII, LLC, a Tennessee Limited Liability Company (hereinafter "Defendants") do
8 now, and at all times mentioned in this Complaint, did have their principal corporate offices
9 located in Goodlettsville, Tennessee.

10 7. At all times relevant, Defendant DolGen California, LLC and DG Strategic II,
11 LLC have owned, operated, licensed, and/or leased retail stores and Defendant DG Strategic VII,
12 LLC has owned, operated, licensed, and/or leased a distribution center (hereinafter collectively
13 referred to as the "Facilities" or "Defendants' Facilities.") The specific list of the locations of the
14 Facilities is attached as **Exhibit A**.

15 8. The People are informed and believe and based thereon allege that at all times
16 relevant hereto and as more fully alleged in paragraphs 20 through 28, below, Defendants
17 stocked, stored and/or sold hazardous materials at and from Defendants' Facilities. These
18 hazardous materials include, but are not limited to over-the-counter medications, bleaches,
19 pesticides, fertilizers, batteries, electronic devices, mercury containing lamps, paints, aerosol
20 products, cleaning agents, and other flammable, reactive, toxic and corrosive materials.
21 Defendants also generated regulated quantities of hazardous waste at each of the Facilities as a
22 result of their business practices.

23 9. At all times relevant hereto, Defendants were and are legally responsible for
24 compliance with the provisions of the Health and Safety Code, including Chapters 6.5 and 6.95 of
25 Division 20, at the Facilities. The People are informed and believe and based thereon allege that
26 at all relevant times Defendants controlled and were responsible for the operations of the
27 Facilities and aided and abetted and acted in concert with persons who exercised control over
28 those operations, including but not limited to, all acts and omissions relating to the management

1 of hazardous materials and hazardous waste at the Facilities, and that Defendants failed to take
2 appropriate steps to prevent and correct the violations alleged herein despite having power,
3 authority and notice sufficient to do so.

4 10. Defendants are "persons," as defined in Health and Safety Code section 25118 and
5 Business & Professions Code section 17201, and each is a "business," as defined in Health and
6 Safety Code section 25501, subdivision (c).

7 11. When reference is made herein to any act or omission of a Defendant, such
8 allegation shall include the act or omission of the owners, officers, directors, employees, and
9 representatives of such Defendant, and each of them, engaged in said acts or omissions.

10 JURISDICTION AND VENUE

11 12. Venue is proper in this County pursuant to Health and Safety Code sections 25183
12 and 25515.6, and Business and Professions Code section 17200 *et seq.*, in that certain of the
13 violations alleged in the Complaint occurred in the County of Kern and throughout the State of
14 California. This Court has jurisdiction pursuant to Article 6, section 10 of the California
15 Constitution, section 393 of the Code of Civil Procedure and section 25182 of the Health and
16 Safety Code.

17 STATUTORY AND REGULATORY BACKGROUND

18 13. The State of California has enacted a comprehensive statutory and regulatory
19 framework for the generation, handling, treatment, storage, transportation, and disposal of
20 hazardous wastes. This framework, contained in Chapter 6.5 of Division 20 of the Health and
21 Safety Code, sections 25100, *et seq.*, and its implementing regulations, which are found at title 22
22 of the California Code of Regulations section 66260.1, *et seq.*, mandates a "cradle to grave"
23 system known as the Hazardous Waste Control Law ("HWCL"). The HWCL system is
24 maintained to record the generation, registration, tracking, storage, treatment, and disposal of
25 hazardous wastes and to provide for the protection of the public and the environment from present
26 or potential risks posed by hazardous wastes. The State of California has enacted a
27 comprehensive statutory and regulatory framework for the notification, handling, training and
28 spill/release reporting of hazardous materials. This framework is contained in Chapter 6.95 of

1 Division 20 of the Health and Safety Code, sections 25500, *et seq.*, and its implementing
2 regulations and is known as the Hazardous Materials Release Response Plans and Inventory Law.
3 In order to better inform the public and to assist emergency responders, Chapter 6.95 has, for over
4 twenty (20) years, mandated that basic information on the location, type, quantity, and the health
5 risks of hazardous materials handled, used, stored, or disposed of in the State, which could be
6 accidentally released into the environment, be made available to firefighters, health officials,
7 planners, public safety officers, health care providers, regulatory agencies and other interested
8 persons.

9 **ENFORCEMENT AUTHORITY**

10 14. Section 25189 of the Health and Safety Code imposes civil liability for any
11 negligent or intentional violation of the HWCL, or for any violation of any permit, rule,
12 regulation, standard, or requirement issued or promulgated pursuant to the HWCL. Section
13 25189.2 of the Health & Safety Code is an alternative strict liability provision, which creates
14 liability for any violation of the HWCL, or for any violation of any permit, rule, regulation,
15 standard, or requirement issued or promulgated pursuant to the HWCL.

16 15. Business and Professions Code section 17206 imposes civil liability for any act of
17 unfair competition, as defined in California Business and Professions Code section 17200.

18 16. Business and Professions Code section 17203 authorizes the Court to issue an
19 order that enjoins any person who engages, has engaged, or proposes to engage in unfair
20 competition, as defined in California Business and Professions Code section 17200.

21 17. Health and Safety Code sections 25181 and 25184 authorize the Court to issue an
22 order that enjoins any ongoing or potential violation of the HWCL, or of any applicable rule,
23 regulation, permit, standard, requirement, or order issued or promulgated pursuant to the HWCL.

24 18. Health and Safety Code sections 25515.6 and 25515.8 authorize the Court to issue
25 an order that enjoins any ongoing or potential violation of Chapter 6.95.

26 19. Health and Safety Code sections 25184 and 25515.8 provide that in civil actions
27 brought pursuant to the HWCL or Chapter 6.95, respectively, in which an injunction or temporary
28 restraining order is sought, it shall not be necessary for the People to allege or prove at any stage

1 of the proceeding that irreparable damage will occur should the temporary restraining order,
2 preliminary injunction, or permanent injunction not be issued, or that the remedy at law is
3 inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction
4 shall issue without such allegations and without such proof.

5 **GENERAL ALLEGATIONS**

6 The People are informed and believe and based thereon allege as follows:

7 20. At all times relevant hereto and occurring within five (5) years of the discovery of
8 the facts constituting grounds for commencing this action and continuing thereafter, Defendants
9 owned, operated, licensed, or leased and continue to own, operate, license, or lease, and are
10 responsible for acts and/or omissions committed at the Facilities throughout California.

11 21. At all times relevant hereto commencing within five (5) years of the discovery of
12 the facts constituting grounds for commencing this action and continuing thereafter, Defendants
13 handled at the Facilities significant quantities of hazardous materials, including but not limited to,
14 over-the-counter medications, bleaches, pesticides, fertilizers, batteries, electronic devices,
15 ignitable liquids, mercury containing lamps, paints, aerosol products, cleaning agents, and other
16 flammable, reactive, toxic and corrosive materials. Many of those hazardous materials are sold to
17 the public in the ordinary course of business. At all times relevant hereto and continuing from
18 and after the date of filing of this Complaint, Defendants also generated regulated quantities of
19 hazardous waste at each of the Facilities.

20 22. At all times relevant hereto and within five (5) years of the discovery of the facts
21 constituting grounds for commencing this action and continuing thereafter, Defendants also
22 generated regulated quantities of hazardous waste at each of the Facilities as a result of various
23 causes, including but not limited to, damage to containers, spills and releases of hazardous
24 materials, sharps waste, pharmaceutical waste and various hazardous wastes generated from
25 unsellable products and customer returns of hazardous products, which must be handled and
26 disposed of as hazardous waste in compliance with the HWCL.

27 23. At all times relevant to this Complaint, Defendants are and were responsible for
28 the operation of the Facilities. At all times relevant to this Complaint, Defendants are and were

1 aware of and conducted, approved and controlled the hazardous-materials, and hazardous-waste
2 management activities at the Facilities. At all times relevant to this Complaint, Defendants'
3 actions and omissions, as part of a continuing course of conduct, are or were the legal cause of the
4 violations alleged herein, and Defendants reasonably could have taken action to prevent them.

5 24. Plaintiff is informed and believes, and thereupon alleges, that at all times relevant
6 to this Complaint, Defendants, at each of the Facilities, generated hazardous waste during every
7 ninety (90) day period.

8 25. Plaintiff is informed and believes and thereupon alleges that Defendants have
9 violated provisions of the following statutes, including implementing regulations associated with
10 each of the statutes and any related permit, rule, standard, or requirement issued or promulgated
11 pursuant to these statutes, at the Facilities within the time period applicable to this action: Chapter
12 6.5 of the Health and Safety Code, sections 25100, *et seq.*, Chapter 6.95 of the Health and Safety
13 Code, sections 25500, *et seq.*, Health and Safety Code sections 117600, *et seq.*, and Business and
14 Professions Code sections 17200, *et seq.*

15 26. Plaintiff alleges that Defendants, at all times relevant hereto, caused and/or
16 performed each of the acts and/or omissions in violation of California law in the ownership and/or
17 operation of some or all of the Facilities as alleged below:

18 a. Disposed, or caused the disposal, of hazardous waste at a point not authorized
19 by law, in violation of Health & Safety Code sections 25189 and 25189.2, including,
20 without limitation, to any trash, dumpster, drain, sink, or toilet at any of the Facilities, and
21 onto the surface or subsurface of the ground at any unauthorized location, or at a landfill
22 or transfer station not authorized to receive hazardous waste;

23 b. Failed to determine if a generated waste, including but not limited to, items
24 returned by customers to the Facilities, and wastes generated at the Facilities were
25 hazardous wastes, as required by title 22 of the California Code of Regulations section
26 66262.11;

27 c. Failed, refused and neglected to handle hazardous waste in accordance with the
28 requirements of Chapter 6.5 of the Health and Safety Code and its implementing

1 regulations in title 22 of the California Code of Regulations, including but not limited to
2 section 66265.172 (compatibility of waste with containers), and section 66265.177
3 (placing incompatible waste streams in the same container);

4 d. Failed to properly manage, identify the date of accumulation, and label
5 containers of hazardous waste at the Facilities, in violation of California Code of
6 Regulations, title 22, section 66262.34;

7 e. Failed to lawfully and timely dispose of all accumulated hazardous waste at
8 each Facility as required by California Code of Regulations, title 22, section 66262.34
9 [Accumulation Time];

10 f. Failed to timely cause to be prepared and filed with the Department of Toxic
11 Substance Control a hazardous waste manifest for all hazardous waste that is transported,
12 or submitted for transportation, for offsite handling, treatment, storage, disposal, or any
13 combination thereof, from any Facility as required by Health & Safety Code section
14 25160(b)(3) and California Code of Regulations, title 22, section 66262.23 [Use of the
15 Manifest];

16 g. Failed to timely notify the DTSC by filing an exception report concerning the
17 treatment, storage, or disposal facility's failure to return any executed manifest, as
18 required by Health & Safety Code section 25160(b)(3);

19 h. Unlawfully stored, handled and accumulated hazardous waste, and unlawfully
20 failed to segregate incompatible hazardous-waste items that were in leaking containers, at
21 each Facility, as required by Health & Safety Code section 25123.3 and California Code
22 of Regulations, title 22, sections 66262.34 [Accumulation Time], 66265.173
23 [Management of Containers] and 66265.177 [Special Requirements for Incompatible
24 Wastes];

25 i. Failed to maintain properly designated and designed hazardous waste storage
26 areas, which include the segregation of hazardous wastes, and failed to conduct
27 inspections of hazardous waste storage areas, at each Facility, as required by California
28 Code of Regulations, title 22, sections 66262.34 and 66265.174 [Inspections (weekly)];

1 j. Failed to comply with employee training obligations pertaining to handling of
2 hazardous waste at the Facilities, in violation of California Code of Regulations, title 22,
3 section 66265.16;

4 k. Failed to immediately report any release or threatened release of a reportable
5 quantity of any hazardous material from any Facility into the environment, as required by
6 Health and Safety Code sections 25501, 25507 and/or 25510;

7 l. Stored hazardous waste onsite beyond the time permitted by law at a facility
8 which did not have a hazardous waste storage permit from DTSC, in violation of title 22
9 of the California Code of Regulations section 66262.34, and California Health and Safety
10 Code section 25123.3, subdivision (h);

11 m. Failed to continuously implement, maintain, and submit to the responsible
12 "Certified Unified Program Agency" (as defined in Health and Safety Code section
13 25501), a complete hazardous materials business plan, for each Facility, as required by
14 Health and Safety Code section 25507 and California Code of Regulations, title 19,
15 section 2650 [Minimum Standards for Business Plans];

16 n. Failed to prepare and maintain copies of hazardous waste manifests for three
17 (3) years, in violation of title 22 of the California Code of Regulations sections 66262, *et*
18 *seq.*; and failed to retain documentation demonstrating the applicability of claimed
19 exemptions. As used in this paragraph "manifest" means a shipping document originated
20 and signed by a generator of hazardous waste that contains all of the information required
21 by law and that complies with all applicable federal and state regulations, and includes but
22 is not limited to, receipts;

23 o. Failed to include in each hazardous materials business plan procedures for
24 emergency response to a release or threatened release of hazardous materials, as required
25 by Health and Safety Code sections 25505 and 25507;

26 p. Failed to properly manage, mark, and store universal waste at each Facility in
27 compliance with the standards for universal waste management found in California Code
28 of Regulations, title 22, sections 66273.33 [Universal Waste Management Requirements

1 for Batteries, Lamps, and Mercury-Containing Equipment] through 66273.36; or in the
2 alternative, failing to manage such waste as hazardous waste as required by Chapter 6.5 of
3 the Health and Safety Code and its implementing regulations in the California Code of
4 Regulations, title 22, including, but not limited to, section 66262.34;

5 q. Failed to keep a record of each shipment of universal waste sent from any
6 Facility, as required by title 22 of the California Code of Regulations section 66273.39, or
7 in the alternative, failing to manage such waste as hazardous waste as required by Chapter
8 6.5 of the Health and Safety Code and its implementing regulations in the California Code
9 of Regulations, title 22, including, but not limited to, section 66262.34;

10 r. Failed to comply with the requirements of title 40 of the Code of Federal
11 Regulations section 262.34, subdivisions (d) – (f), requiring generators to designate an
12 employee at all times as the emergency coordinator and post the required information
13 listed on section 262.34, subdivision (d)(5)(i) through (iv), in violation of title 22 of the
14 California Code of Regulations section 66262.34, subdivision (d)(2);

15 s. Failed to treat returned or discarded non-empty aerosol cans at the Facilities as
16 universal waste or hazardous waste, in violation of California Code of Regulations, title
17 22, Chapter 23, sections 66273.1, *et seq.*;

18 t. Failed to implement, maintain and comply with, an employee training program
19 meeting the requirements of Health and Safety Code section 25505, subdivision (a)(4),
20 and title 19 of the California Code of Regulations section 2659, pertaining to hazardous
21 materials, and business and area plans, including but not limited to Hazardous Materials
22 Business Plans;

23 u. Failed to implement and maintain a business emergency plan for emergency
24 response to a release or threatened release of hazardous materials, in violation of Health
25 and Safety Code section 25507; and

26 v. Failed to implement, maintain or to submit to the unified program agency (as
27 defined in Health and Safety Code sections 25501 and 25502), a complete hazardous
28 materials business plan for each of the Facilities, in violation of Health and Safety Code

1 sections 25505 and 25508, and section 2650 of title 19 of the California Code of
2 Regulations.

3 27. Plaintiff alleges that Defendants' noncompliance with the above statutes and
4 regulations threatened public health and safety and the environment. The claims herein stated
5 against Defendants do not include claims for performance of cleanup, corrective action, or
6 response action for any actual past or future releases, spills, or disposals of hazardous waste or
7 hazardous substances that were caused or contributed to by Defendants at or from the Facilities.

8
9 **FIRST CAUSE OF ACTION**

10 (Disposal of Hazardous Waste at a Point Not Authorized)
11 (Health & Safety Code, §§ 25189, 25189.2)

12 28. Plaintiff realleges paragraphs 1 through 27, inclusive.

13 29. Health and Safety Code sections 25189 and 25189.2 prohibit the disposal, or
14 causing of the disposal, of hazardous waste at a point not authorized under Division 20, Chapter
15 6.5. Section 25189, subdivisions (c) and (d), respectively, prohibit the intentional or negligent
16 disposal of hazardous waste at an unauthorized point, and section 25189.2, subdivision (c)
17 prohibits the disposal of hazardous waste at an unauthorized point as a matter of strict liability.

18 30. Defendants violated Health and Safety Code Division 20, Chapter 6.5 by, among
19 other things, disposing and causing the disposal of hazardous waste at and from the Facilities to
20 unauthorized points, in violation of California Health and Safety Code sections 25189 and
21 25189.2.

22 31. Each disposal of hazardous waste at an unauthorized point occurred within five (5)
23 years of the discovery of the facts constituting grounds for commencing the action on these
24 claims, and each day the waste was allowed to remain at such point without the immediate filing
25 of a report of the deposit with the DTSC, subjects Defendants to a separate and additional civil
26 penalty under Health and Safety Code section 25189, or alternatively under section 25189.2.

27 32. Based on the above, the People request injunctive relief against Defendants under
28 Health and Safety Code section 25181, and civil penalties under Health and Safety Code section
25189 or 25189.2, as described in the People's prayer for relief.

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SECOND CAUSE OF ACTION

(Violation of Hazardous Waste Handling and Storage Requirements)
(Health & Safety Code Chapter 6.5 and Implementing Regulations;
Cal. Code Regs., tit. 22, § 66260.1 *et seq.*)

33. Plaintiff realleges paragraphs 1 through 32, inclusive.

34. Health and Safety Code sections 25189 and 25189.2 prohibit improper hazardous waste handling and storage under Division 20, Chapter 6.5.

35. Plaintiff alleges that Defendants violated the requirements of Chapter 6.5 of Division 20 of the Health and Safety Code, and its implementing regulations at title 22 of the California Code of Regulations, sections 66260.1, *et seq.*, applicable to the Facilities by virtue of the acts alleged in paragraph 26, above, and incorporated herein by reference and unless enjoined by order of the Court, Defendants may or will continue in the course of conduct as alleged herein.

36. Each violation of the requirements of Chapter 6.5 of Division 20 of the Health and Safety Code sections 25100, *et seq.*, and its implementing regulations at title 22 of the California Code of Regulations, sections 66260.1, *et seq.* that occurred within five (5) years of the discovery of the facts constituting grounds for commencing the action on these claims subjects Defendants to a separate and additional civil penalty under Health and Safety Code section 25189, or alternatively under section 25189.2.

37. Based on the above, the People request injunctive relief against Defendants under Health and Safety Code section 25181, and civil penalties under Health and Safety Code section 25189 or 25189.2, as described in the People's prayer for relief.

THIRD CAUSE OF ACTION

(Unauthorized Transportation of Hazardous Waste)
(Health & Safety Code, §§ 25163, 25189, 25189.2; Cal. Code Regs., tit. 22, § 2650)

38. Plaintiff realleges paragraphs 1 through 37 inclusive.

39. Chapter 6.5 of the Health and Safety Code prohibits the unauthorized transportation, or causing the transportation, of hazardous waste. Section 25163 prohibits the transportation of hazardous waste without a valid registration from the DTSC. California Code of

1 Regulations, title 22, section 66263.23, subdivision (b) prohibits the transportation of hazardous
2 waste to a location not permitted or otherwise authorized by the DTSC to receive the waste.

3 40. At and within all relevant times Defendants engaged in the transportation of
4 hazardous waste without a valid registration from the DTSC, from the Facilities to unauthorized
5 locations, in violation of Health and Safety code section 25163 and California Code of
6 Regulations, title 22, section 66263.23. Each day the waste was allowed to remain at such an
7 unauthorized location without the immediate filing of a report of the deposit with the DTSC,
8 subjects Defendants to a separate and additional civil penalty under Health and Safety Code
9 section 25189, or alternatively under section 25189.2.

10 41. Based on the above, the People request injunctive relief against Defendants under
11 Health and Safety Code section 25181, and civil penalties under Health and Safety Code section
12 25189 or 25189.2, as described in the People's prayer for relief.

13 **FOURTH CAUSE OF ACTION**

14 (Violations of Hazardous Materials Release Response Plans and Inventory Laws)
15 (Health & Safety Code Chapter 6.95; Cal. Cod Regs., title 19, § 2650 *et seq.*)

16 42. Plaintiff realleges paragraphs 1 through 41, inclusive.

17 43. Chapter 6.95 of Division 20 of the Health and Safety Code requires businesses,
18 among other things, to provide training to employees and retain records, maintain hazardous
19 materials response plans and inventories, and applicable permits.

20 44. Defendants failed to comply with Chapter 6.95 of Division 20 of the Health and
21 Safety Code by, among other things, failing to maintain the required hazardous materials response
22 plans and inventories, training records and applicable permits required for the California
23 Facilities, and, unless enjoined by order of the court, Defendants may or will continue in the
24 course of conduct as alleged herein.

25 45. Plaintiff alleges that Defendants are liable for civil penalties as set forth in Health
26 and Safety Code sections 25515, subs. (a) and (b) and 25515.5, subd. (b), for each and every
27 separate violation of Health and Safety Code sections 25504 to 25508.2, inclusive, or section
28 25511, and any applicable permit, rule, regulation, standard, or requirement issued or

1 promulgated pursuant thereto which occurred within five (5) years before the discovery of the
2 facts constituting grounds for commencing the action on those claims.

3 46. Plaintiff alleges that, as a consequence of Defendants' violation of each of these
4 sections, Defendants are liable for a civil penalty for each day in which the violation occurred,
5 pursuant to Health and Safety Code section 25515, subdivision (a).

6 47. Plaintiff alleges that, as a consequence of Defendants' knowing violation of any of
7 these sections, Defendants are liable for a civil penalty for each separate violation for each day in
8 which the violation occurred, pursuant to Health and Safety Code section 25515, subdivision (b).

9 48. Based on the above, the People request injunctive relief against Defendants under
10 Health and Safety Code sections 25515.6 and 25515.8, as described in the People's prayer for
11 relief.

12 **FIFTH CAUSE OF ACTION**

13 (Violations of Unfair Competition Laws)
14 (Business & Professions Code sections 17200, *et seq.*)

15 49. Plaintiff realleges paragraphs 1 through 48, inclusive.

16 50. Plaintiff alleges that, within four (4) years of the date of commencement of this
17 action Defendants engaged in, and continue to engage in, unlawful acts, omissions, and practices
18 that constitute unfair competition within the meaning of Business and Professions Code sections
19 17200 through 17208, as alleged in the First through Fourth Causes of Action, above, and unless
20 enjoined by order of the Court, Defendants may or will continue in the course of conduct as
21 alleged herein.

22 51. In addition to the acts alleged in the First through Fourth Causes of Action above,
23 Defendants have engaged in, and continue to engage in, the following unlawful acts, omissions,
24 and practices that constitute unfair competition within the meaning of Business and Professions
25 Code section 17200 *et seq.*, including but not limited to: knowingly caused hazardous substances
26 to be deposited into or upon any road, street, highway, alley, or railroad right-of-way, or upon the
27 land of another, without the permission of the owner, or into the waters of this state, in violation
28 of California law.

1 52. Defendants further engaged in acts or practices that violated Civil Code section
2 1798.81 by disposing of customer records without shredding, erasing, or otherwise modifying the
3 personal information in those records to make it unreadable or undecipherable through any
4 means.

5 53. Each and every separate act constitutes an unlawful and/or unfair business
6 practice. Each day that Defendants engaged in each separate unlawful act, omission or practice is
7 a separate and distinct violation of Business and Professions Code section 17200.

8 54. Plaintiff alleges that, pursuant to Business and Professions Code section 17206,
9 Defendants are liable for civil penalties for each and every separate act of unfair competition as
10 alleged herein.

11 55. Based on the above, the People request injunctive relief against Defendants under
12 Business and Professions Code section 17203 from engaging in acts or practices that, as alleged
13 in this Complaint, violate Chapter 6.5 and/or 6.95 of Division 20 of the Health and Safety Code
14 and their implementing regulations, and county and local ordinances pertaining to hazardous
15 waste generator permits, which thereby constitute unfair competition within the meaning of
16 Business and Professions Code section 17200.

17 **PRAYER FOR RELIEF**

18 Based on the above, the People request the following relief as to Defendants:

19 1. A Permanent Injunction requiring Defendants to comply with those provisions of
20 Health and Safety Code, Division 20, Chapter 6.5 and implementing regulations, which
21 Defendants are alleged to have violated;

22 2. A Permanent Injunction requiring Defendants to comply with those provisions of
23 Health and Safety Code, Division 20, Chapter 6.95 and implementing regulations, which
24 Defendants are alleged to have violated;

25 3. A Permanent Injunction, issued pursuant to Business and Professions Code section
26 17203, prohibiting Defendants from engaging in activity that violates the provisions of Chapters
27
28

1 6.5 and 6.95 of Division 20 of the Health and Safety Code, and Civil Code section 1798.81, as
2 alleged in this Complaint which thereby constitute unfair competition within the meaning of
3 Business and Professions Code section 17200;

4 4. Civil penalties against Defendants for each violation of Health and Safety Code
5 section 25189, or alternatively section 25189.2, in an amount according to proof;

6 5. Civil penalties against Defendants pursuant to Health and Safety Code sections
7 25515 and 25515.5, in an amount according to proof;

8 6. Civil penalties against Defendants pursuant to Business and Professions Code
9 section 17206 for each act of unfair competition, in an amount according to proof;

10 7. Plaintiff's costs of inspection, investigation, attorney's fees, enforcement,
11 prosecution, and suit herein; and

12 8. Such other and further relief as the Court deems just and proper.

13
14 Dated: April 11, 2017

LISA S. GREEN, District Attorney
County of Kern, State of California

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17 By: 

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The People of the State of California