



Plaintiff, the STATE OF TEXAS, acting by and through the County Attorney of Harris County, Texas, Vince Ryan, and Plaintiff, the CITY OF HOUSTON, file this petition complaining of Defendants **ST SMOKE SHOP PARTNERSHIP; KEVIN C. LAWRENCE d/b/a ST SMOKE SHOP & RECORDING STUDIO and d/b/a ST URBAN CONNECTIONS a/k/a ST URBAN CONNECT; JASMINE M. BOOZE d/b/a ST URBAN CONNECT a/k/a ST URBAN CONNECTIONS and d/b/a ST SMOKE SHOP & RECORDING STUDIO a/k/a ST Smoke Shop; JUSTIN FINCH; DANDY MICHAEL CHAVEZ; NJV LANDMARK LTD.; JVC LANDMARK, INC.; AND THE REAL PROPERTY KNOWN AS 9685 BISSONNET STREET, HOUSTON, TEXAS 77036**, and seek temporary and permanent injunctive relief to stop the sale of dangerous synthetic drugs in order to protect the public as follows:

### **I. DISCOVERY**

1. Plaintiffs intend to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively plead that this case is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 for the following reasons:

- (a) The relief sought includes non-monetary injunctive relief.
- (b) The claim for monetary relief—including penalties, costs, expenses, consumer redress, and attorney fees—is in excess of \$100,000.

### **II. JURISDICTION AND STATUTORY AUTHORITY**

2. This enforcement action is brought by STATE OF TEXAS, by the Harris County Attorney's Office, and in the public interest pursuant to the authority granted by § 17.47 and § 17.48 of the Texas Deceptive Trade Practices–Consumer Protection Act, Tex. Bus. & Com.

Code §§ 17.41–17.63 (“DTPA”), upon the ground that Defendants have engaged in false, deceptive and misleading acts and practices in the course of trade and commerce as defined in, and declared unlawful by, § 17.46(a) and (b) of the DTPA.

3. In addition, this suit is brought by the Harris County Attorney’s Office and the City of Houston against Defendants to enjoin and abate a common nuisance pursuant to Texas Civil Practice & Remedies Code §§ 125.001–125.047. Verification of the petition or proof of personal injury need not be shown by the State under Texas Civil Practice & Remedies Code § 125.002(a).

### **III. PUBLIC INTEREST AND NOTICE**

4. Plaintiffs have reason to believe that Defendants have engaged in, and will continue to engage in the unlawful practices set forth in this petition. Plaintiffs have reason to believe Defendants have caused and will cause immediate, irreparable injury, loss and damage to the State of Texas by selling synthetic cannabinoids to consumers without disclosing that these substances are illegal and potentially dangerous to their health. Therefore, these proceedings are in the public interest. *See* DTPA § 17.47(a).

5. The conduct of Defendants in selling controlled substances to consumers from retail stores in violation of Chapter 481 of the Texas Health & Safety Code and constitutes a common nuisance as defined by Texas Civil Practice & Remedies Code § 125.0015(4). Therefore, Defendants’ conduct is subject to abatement under Texas Civil Practice & Remedies Code § 125.002.

6. Prior to hearing on the Plaintiffs’ Application for Temporary Restraining Order, Defendants were provided with written notice of the hearing with a copy of the Plaintiffs’ Petition. In the event Defendants do not appear for the hearing on the Plaintiffs’ Application for

Temporary Restraining Order, the Court is statutorily authorized to issue the Temporary Restraining Order *ex parte*. Pre-suit notice is not required under DTPA § 17.47(a) because there is good cause to believe that such an emergency exists—due to the seriousness of the allegations and the danger to public health—that immediate and irreparable injury, loss, or damage would occur as a result of delay. *Id.*

#### **IV. VENUE**

7. Venue of this suit lies in Harris County, Texas, under the DTPA § 17.47(b), for the following reasons:

- (a) The transactions forming the basis of this suit occurred in Harris County, Texas.
- (b) Defendants have done business in Harris County, Texas.
- (c) Defendants’ principal place of business known as the ST Smoke Shop, is in Harris County, Texas.

8. In addition, venue is mandatory in Harris County under Texas Civil Practice & Remedies Code § 125.002 because the nuisance to be enjoined is maintained by Defendants in Harris County, Texas.

#### **V. TRADE AND COMMERCE**

9. At all times described below, Defendants and their agents have engaged in conduct constituting “trade” and “commerce,” defined in § 17.45(6) of the DTPA, as follows:

“Trade” and “commerce” mean the advertising, offering for sale, sale, lease, or distribution of any good or service, of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value, wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this state.

## VI. CLAIM FOR RELIEF

10. Plaintiffs seek monetary relief—including penalties, costs, expenses, consumer redress, and attorney fees—in excess of \$100,000 and could exceed \$1,000,000. Plaintiffs also seek nonmonetary, injunctive relief.

## VII. DEFENDANTS

11. Defendant **ST Smoke Shop Partnership (“Partnership”)** is an unregistered Texas general partnership which regularly conducts business in Harris County at 9685 Bissonnet Street, Houston, Texas 77036, a location which the public also refers to as 9681 Bissonnet Street, Houston Texas 77036. The Partnership may be served with process by serving one or both of its general partners as follows:

- (a) Kevin Charles Lawrence at 18230 Bonham Oaks Court, Richmond, Texas 77407, or wherever he may be found;
- (b) Jasmine Mariah Booze at 18230 Bonham Oaks Court, Richmond, Texas 77407, or wherever she may be found.

12. Defendant **Kevin Charles Lawrence d/b/a ST Smoke Shop & Recording Studio a/k/a ST Smoke Shop and d/b/a ST Urban Connections a/k/a ST Urban Connect (“Kevin Lawrence” or “Lawrence”)** is sued in his individual capacity and in his capacity as a general partner in the ST Smoke Shop Partnership. He regularly conducts business in Harris County at 9685 Bissonnet Street, Houston, Texas 77036. He may be served with process at 18230 Bonham Oaks Court, Richmond, Texas 77407, or wherever he may be found.

13. Defendant **Jasmine Mariah Booze d/b/a ST Urban Connect a/k/a ST Urban Connections and d/b/a ST Smoke Shop & Recording Studio a/k/a ST Smoke Shop (“Jasmine Booze” or “Booze”)** is sued in her individual capacity and in her capacity as a

general partner in the ST Smoke Shop Partnership. She regularly conducts business in Harris County at 9685 Bissonnet Street, Houston, Texas 77036. She may be served with process in at 18230 Bonham Oaks Court, Richmond, Texas 77407, or wherever she may be found.

14. Defendant **Justin Finch** is sued in his individual capacity. He regularly conducts business in Harris County. He may be served at his place of residence in Harris County at 14651 Philippine Street Apt 6202 Houston, Texas 77040, or wherever he may be found.

15. Defendant **Dandy Michael Chavez (“Dandy Chavez” or “Chavez”)** is sued in his individual capacity. He regularly conducts business in Harris County. He may be served at his place of residence at 1607 Azalea Street, Apartment D2, Victoria, Texas 77901, or wherever he may be found.

16. Defendant **NJV Landmark, Ltd. (“NJV Landmark” or “NJV” or “Landlord Defendant” or “Landlord”)** is a Texas limited partnership which regularly conducts business in Harris County at 9685 Bissonnet Street, Houston, Texas 77036. NJV Landmark, Ltd.’s business office is located at 3511 Black Locust Drive, Sugar Land 77479. NJV Landmark, Ltd. is the owner of the real property located at 9685 Bissonnet Street, Houston, Texas 77036. It may be served with process by serving its registered agent, Ying-Tak Lau, at 3511 Black Locust Drive, Sugar Land 77479.

17. Defendant, **JVC Landmark, Inc.**, is a Texas corporation and is sued in its capacity as the general partner of NJV Landmark, Ltd., a business which regularly conducts business in Harris County. JVC Landmark, Inc., may be served with process by serving its registered agent, president, and director, Ying-Tak Lau, at 3511 Black Locust Drive, Sugar Land 77479.

18. Defendant **The Real Property Known as 9685 Bissonnet Street, Houston, Texas 77036 a/k/a 9681 Bissonnet Street, Houston, Texas 77036 (“Property,” “Real Property,” or**

**“In Rem Defendant”**) is sued *in rem*. This property is owned by Defendant NJV Landmark, Ltd. who may be served with process by serving its registered agent and president, Ying-Tak Lau at 3511 Black Locust Drive, Sugar Land 77479.

19. For purposes of this petition, the following definitions shall apply:

- (a) **“Partnership Defendants”** or **“Partners”** means Kevin Lawrence and Jasmine Booze;
- (b) **“Individual Defendants”** means Kevin Lawrence, Jasmine Booze, Justin Finch, and Dandy M. Chavez;
- (c) **“Defendants”** means all defendants named in this lawsuit, except for the Landlord Defendant and The Real Property;
- (d) **“Store,” “Smoke Shop,” and “ST Smoke Shop”** mean the retail operation generally known as any or all of the following: “ST Smoke Shop & Recording Studio,” “ST Smoke Shop,” “ST Urban Connections,” and “ST Urban Connect;” and
- (e) **“9681 Bissonnet”** means the store located on the real property with the legal address of 9685 Bissonnet Street, Houston, Texas 77036.

### VIII. ACTS OF AGENTS

20. Whenever in this petition it is alleged that Defendants did any act, it is meant that

- (a) the named Defendants performed or participated in the act, or
- (b) the named Defendants’ officers, successors in interest, agents, partners, trustees or employees performed or participated in the act on behalf of and under the authority of one or more of the Defendants.

## IX. FACTUAL BACKGROUND

### A. Overview of the Synthetic Marijuana Problem.

21. Since 2010, the United States has experienced an epidemic of so-called designer drugs. Designer drugs are substances that mimic the effects of controlled substances such as marijuana, cocaine, and amphetamines. The chemical structure of the designer drug is purposefully altered by designer drug manufacturers (often overseas) in order to attempt to circumvent controlled substance drug laws.

22. Synthetic marijuana is a designer drug, often manufactured overseas, that is marketed as a “safe” and “legal” alternative to marijuana.<sup>1</sup> Synthetic marijuana is not marijuana at all but a dried leafy substance that is sprayed with powerful, added-in hallucinogenic chemicals (synthetic cannabinoids) that are dangerous and highly addictive to the user.<sup>2</sup> Synthetic marijuana has no medical use.<sup>3</sup> It is consumed like marijuana in that the user generally smokes it in a bowl, bong, water pipe, or by rolling it into a cigarette.<sup>4</sup> The added chemicals are intended to mimic the biological effects of delta-9-tetrahydrocannabinol (THC), the main psychoactive ingredient in marijuana.<sup>5</sup>

23. Synthetic marijuana is often labeled innocently as “incense” and “potpourri” and the packaging may contain the statement “not for human consumption” although the intended

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<sup>1</sup> Ex. 1, *DrugFacts: K2/Spice (“Synthetic Marijuana”)*, NATIONAL INSTITUTE ON DRUG ABUSE (lasted updated Dec. 2012), <http://www.drugabuse.gov/publications/drugfacts/k2spice-synthetic-marijuana>; Ex. 2, 78 Fed. Reg. 28735 (May 16, 2013) (temporary placement of three synthetic cannabinoids into schedule I); Ex. 2a, 80 Fed. Reg. 27854 (May 15, 2015) (extension of temporary placement of three synthetic cannabinoids in schedule I).

<sup>2</sup> Ex. 1, p.1; Ex. 2, 78 Fed. Reg. at 28,736.

<sup>3</sup> Ex. 2, 78 Fed. Reg. at 28,735–36.

<sup>4</sup> Ex. 1, p. 3.

<sup>5</sup> *Id.*; Ex. 2, 78 Fed. Reg. at 28,736.

purpose is in fact for the product to be consumed by a human.<sup>6</sup> Typically, it is sold in retail smoke shops or head shops in small colorful packets with names such as “Kush” or “spice” or “K2” or “Scooby Snax” and costs between \$20 and \$25 per packet.<sup>7</sup> The packaging is intended to target young people who may be afraid of the legal consequences and/or association with illegal drugs but want a “legal” high.<sup>8</sup> According to the federal Drug Enforcement Agency, synthetic marijuana is the second most abused substance by high school seniors after marijuana itself.<sup>9</sup>

24. Poison control centers report<sup>10</sup> that users of synthetic marijuana report symptoms such as:

- Severe paranoia, agitation and anxiety;
- Psychotic episodes;
- Racing heartbeat and high blood pressure (in a few cases associated with heart attacks);
- Nausea and vomiting;
- Muscle spasms, seizures and tremors;
- Intense hallucinations and psychotic episodes; and
- Suicidal thoughts and other harmful thoughts and actions.

25. The American Association of Poison Control Centers has reported thousands of instances of exposure to synthetic marijuana each year.<sup>11</sup> In Texas, there has been an uptick in reported

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<sup>6</sup> Ex. 3, *Synthetic Drugs (a.k.a K2, Spice, Bath Salts, etc.)*, THE WHITE HOUSE: OFFICE OF NATIONAL DRUG CONTROL POLICY, <http://www.whitehouse.gov/ondcp/ondcp-fact-sheets/synthetic-drugs-k2-spice-bath-salts> (last visited May 21, 2015).

<sup>7</sup> Ex. 2, 78 Fed. Reg. at 28,736; Ex. 4, *Alerts: Synthetic Marijuana*, AMERICAN ASSOCIATION OF POISON CONTROL CENTERS, <http://www.aapc.org/alerts/synthetic-marijuana> (last visited May 21, 2015).

<sup>8</sup> Ex.1, p. 2; Ex. 3, p. 1.

<sup>9</sup> Ex. 1.

<sup>10</sup> Ex. 4; Ex. 5, *The Dangers of Synthetic Marijuana*, TEXAS POISON CENTER NETWORK, <http://www.poisoncontrol.org/news/topics/synthetic-marijuana.cfm> (last visited May 21, 2015).

overdoses on synthetic marijuana.<sup>12</sup> Houston has seen its share of incidents related to the ingestion of this dangerous product. As recently as June 23, 2016, paramedics were called to Hermann Park located in the Texas Medical Center to assist approximately 16 individuals who had become ill after ingesting synthetic marijuana.<sup>13</sup> This incident highlights the epidemic of synthetic marijuana abuse known to first responders in the Houston area. This epidemic is not just limited to the Houston area. Throughout the United States, reports of synthetic marijuana use have been linked to overdoses and other serious injuries, including bizarre and violent self-mutilations, and deaths:

- 17-year old girl became paralyzed and permanently brain damaged from suffering multiple strokes and violent hallucinations after smoking synthetic marijuana;<sup>14</sup>
- A 22-year Houston man reported being heavily addicted to synthetic marijuana, which damaged his kidneys and caused severe memory loss.<sup>15</sup>
- Three Dallas teenagers experienced heart attacks after smoking synthetic marijuana in 2011;<sup>16</sup>

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<sup>11</sup> Ex. 4.

<sup>12</sup> Ex. 6, David Winograd, *Nearly 120 People Overdose on Synthetic Marijuana in 5-Day Period*, TIME (May 6, 2014), <http://time.com/89835/synthetic-marijuana-overdoses-k2/>; see also Ex. 7, Kirstin Tate, *Synthetic Marijuana Hospitalizes 45 In Texas*, BREITBART (May 5, 2014), <http://www.breitbart.com/texas/2014/05/05/synthetic-marijuana-hospitalizes-45-smokers-in-texas/>; Ex. 12, Sara Thomas, *East Texas Police Seek Solution to Synthetic Marijuana Problem*, LONGVIEW NEWS JOURNAL (May 8, 2014), <http://www.news-journal.com/news/2014/mar/08/east-texas-police-seek-solution-to-synthetic-marijuana>. See also Ex. 9, Ashley Johnson, *Synthetic Marijuana Becomes Growing Concern in Houston Area*, FOX 26 HOUSTON (March 12, 2015), <http://www.myfoxxhouston.com/story/28416320/synthetic-marijuana-becomes-growing-concern-in-houston-area>.

<sup>13</sup> Ex. 15G, *Synthetic Drug Use at Hermann Park sends 16 to hospital, authorities say*, Houston Chronicle (June 23, 2016), <http://www.chron.com/news/houston/article/HFD>.

<sup>14</sup> Ex. 8, *Teenage Girl Suffered Strokes, Brain Damage After Smoking Synthetic Marijuana*, FOX NEWS (Feb. 5, 2013), <http://www.foxnews.com/health/2013/02/05/teenage-girl-suffered-strokes-brain-damage-after-smoking-synthetic-marijuana>.

<sup>15</sup> Ex. 9.

- An 18-year old Amarillo man died after smoking synthetic marijuana;<sup>17</sup>
- Police have received multiple reports of users high on synthetic marijuana standing in the middle of the street, disoriented, and with no recollection how they got there;<sup>18</sup>
- Synthetic marijuana is also blamed for the death of a soldier from Fort Hood;<sup>19</sup>
- Over 120 people in the Dallas area were reported to have overdosed on synthetic marijuana in a 5-day period;<sup>20</sup>
- A patient presented at an emergency room with self-inflicted fourth-degree burns to his hands and forearms, leading to amputation, due to synthetic marijuana known as Black Diamond.<sup>21</sup>
- A 30-year old man was found dead in his car, due to poisoning from synthetic marijuana;<sup>22</sup>
- More than 60 people in Austin, Texas, were recently reported to have been sickened by a synthetic drug, known as K-2, including reports of seizures, convulsions and extremely violent behavior;<sup>23</sup>

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<sup>16</sup> Ex. 10, *Texas Teens Had Heart Attacks After Smoking Synthetic Marijuana*, FOX NEWS (Nov. 8, 2011), <http://www.foxnews.com/health/2011/11/08/texas-teens-had-heart-attacks-after-smoking-k2/>.

<sup>17</sup> Ex. 11, Abby Haglage, *When Synthetic Pot Kills*, THE DAILY BEAST (Nov. 21, 2013), <http://www.thedailybeast.com/articles/2013/11/21/when-synthetic-pot-kills.html>.

<sup>18</sup> Ex. 12.

<sup>19</sup> Ex. 13, *Synthetic Pot Blamed for Death of U.S. Soldier Deployed to Ebola Zone*, CBS NEWS (Apr. 17, 2015), <http://www.cbsnews.com/news/synthetic-pot-blamed-for-death-of-fort-hood-soldier-deployed-to-ebola-zone/>.

<sup>20</sup> Ex. 6.

<sup>21</sup> Ex. 15, K.A. Meijer et al., *Abstract: Smoking Synthetic Marijuana Leads to Self-Mutilation Requiring Bilateral Amputations*, ORTHOPEDICS, 2014 Apr. 37(4):e391-4, available at <http://www.ncbi.nlm.nih.gov/pubmed/24762846>.

<sup>22</sup> Ex. 14, Koutaro Hasegawa et al., *Abstract: Postmortem Distribution of AB-CHMINACA, 5-fluoro-AMB, and Diphenidine in Body Fluids and Solid Tissues in Fatal Poisoning Case*, 33 FORENSIC TOXICOLOGY 45 (2015), available at <http://link.springer.com/article/10.1007%2Fs11419-014-0245-6>.

- A man in Houston had a psychotic break on a “bad batch” of synthetic marijuana and stabbed, beat, and fatally choked his girlfriend;<sup>24</sup>
- Two men in Houston, after smoking synthetic marijuana, attacked and shot at the hosts of a neighborhood barbeque fundraiser;<sup>25</sup>
- A 27-year old man, described by witnesses as driving erratically and speeding, killed a woman when he drove his car up onto a sidewalk; he then kept driving until he hit another vehicle, and police found synthetic marijuana in his car;<sup>26</sup> and
- In Dallas, Texas, emergency services received approximately 192 emergency calls related to synthetic marijuana between December 1, 2015, and January 7, 2016.<sup>27</sup>

26. A major factor driving the increased distribution of synthetic marijuana is the financial incentives for retailers and distributors. According to the Drug Enforcement Administration (“DEA”), “a \$1,500 purchase of a bulk synthetic cannabinoids can generate as much as \$250,000 of revenue at the retail level.”<sup>28</sup>

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<sup>23</sup> Ex. 15A, *More than 60 Sickened in Austin by K-2: Media Reports*, TEXOMA’S HOMEPAGE.COM (June 5, 2015), <http://www.texomashomepage.com/story/d/story/more-than-60-sickened-in-austin-by-k2-media-report/25480/qZ6kxnvJaU2GTJjx5L7g9g>.

<sup>24</sup> Ex. 15B, Brian Rodgers, “*Synthetic Marijuana*” is Blamed in Death, HOUSTON CHRONICLE, July 9, 2015, at B2.

<sup>25</sup> Ex. 15C, Dylan Baddour, *Man Attacks, Shoots Grieving Family in Rage Over BBQ Chicken*, HOUSTON CHRONICLE (Sept. 9, 2015), <http://www.chron.com/news/houston-texas/houston/article/Man-attacks-shoots-grieving-family-in-rage-over-6493362.php>.

<sup>26</sup> Ex. 15D, Dylan Baddour, *Suspect in Fatal Wreck Carried “Synthetic Marijuana”*, HOUSTON CHRONICLE (Oct. 22, 2015), <http://www.chron.com/houston/article/Suspect-in-fatal-wreck-carried-synthetic-6584058.php>.

<sup>27</sup> Ex. 15E, Robert Wilonsky, *Police, Paramedics Dealing with Sharp Rise in 911 Calls Related to K2 Use in Downtown Dallas*, THE DALLAS MORNING NEWS: CRIME BLOG (Jan. 22, 2016), <http://crimeblog.dallasnews.com/2016/01/police-paramedics-dealing-with-sharp-rise-in-911-calls-related-to-k2-use-in-downtown-dallas.html/>.

<sup>28</sup> Ex. 15F, *Deadly Synthetic Drugs—The Need to Stay Ahead of the Poison Peddlers: Hearing Before the S. Comm. On the Judiciary*, 114th Cong. 5 (2016) (statement of Chuck Rosenberg, Acting Administrator, Drug Enforcement Administration).

***B. Texas Law Prohibits the Sale and Distribution of Synthetic Cannabinoids***

27. Under Texas law, it is a crime to manufacture, deliver, or possess or possess a synthetic cannabinoid, and synthetic cannabinoids are classified as Penalty Group 2-A drugs under the Texas Controlled Substances Act.<sup>29</sup> Tex. Health & Safety Code §§ 481.1031, 481.113, 481.1161.

28. In addition, in 2014, the City of Houston passed Ordinance § 28-572 outlawing synthetic marijuana including the product labeled as “Kush.”<sup>30</sup> Violation of the ordinance carries a criminal penalty of up to \$2000 per violation.

29. The Texas Legislature has recently amended the DTPA to make it a per se DTPA laundry list violation to make a deceptive representation or designation about synthetic marijuana or cause confusion or misunderstanding as to the effects of synthetic marijuana when consumed or ingested. DTPA § 17.46(b)(30).

***C. Defendants Possess, Distribute, and Sell Synthetic Marijuana at ST Smoke Shop, 9865 Bissonnet Street, Houston, Texas, in Harris County***

30. The ST Smoke Shop Partnership owns and operates the store generally known as “ST Smoke Shop & Recording Studio,” “ST Smoke Shop,” “ST Urban Connections,” and “ST Urban Connect,” which is located at 9685 Bissonnet Street, Houston, Texas 77036. This smoke shop

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<sup>29</sup> Tex. Health & Safety Code § 481.1031(b)(5):

(b) Penalty Group 2-A consists of any material, compound, mixture, or preparation that contains any quantity of a natural or synthetic chemical substance, including its salts, isomers, and salts of isomers, listed by name in this subsection or contained within one of the structural classes defined in this subsection:

....

(5) any compound containing a core component substituted at the 1-position to any extent, and substituted at the 3-position with a link component attached to a group A component, whether or not the core component or group A component are further substituted to any extent, including . . . .”

<sup>30</sup> Ex. 16, City of Houston Kush Ordinance.

consists of a retail store which occupies two suites on the 9685 Bissonnet property, the suite described as 9685 Bissonnet and the suite described as 9681 Bissonnet. The two suites share the same listed phone number, indicating that the two suites compose a single store.

31. The Partners, Kevin Lawrence and Jasmine Booze, have both contributed business property to the Partnership which is used at the smoke shop, and public records reflect they each hold title to that business property (see HCAD Personal Property Account 2186143 for Jasmine Booze and 2186140 for Kevin Lawrence (sic)).<sup>31</sup> The Partners have both participated in the operation and management of the partnership.

32. The Partners have registered assumed names on behalf of the partnership.<sup>32</sup> Kevin Lawrence is a long-time smoke shop operator, having filed his first assumed name certificate in May 2012 for “ST Smoke Shop & Recording Studio.”<sup>33</sup> As of August of 2013, Jasmine Booze had joined the Partnership, as exemplified by the assumed name certificate she filed for “ST Urban Connect.”<sup>34</sup> Additionally, in January 2014, Kevin Lawrence filed an assumed name certificate for “ST Urban Connections.”<sup>35</sup> All of these assumed name certificates reflect addresses of either 9685 Bissonnet or 9681 Bissonnet, which are adjacent suites in the strip center having a legal address of 9685 Bissonnet. These adjacent suites compose the smoke shop which sold synthetic cannabinoids and other controlled substances as determined by the law

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<sup>31</sup> Ex. 17A, Harris County Appraisal District, Business Personal Property Account Information, 9685 Bissonnet Street, Houston, Texas 77036. ST Urban Connect and Ex. 18A Deed for 9685 Bissonnet Street.

<sup>32</sup> The address 9681 Bissonnet Street is the generally used address for the suite labeled as “ST Smoke Shop & Recording Studio,” but is a lot for the real property known as 9685 Bissonnet Street, of which NJV Landmark, Ltd. is the owner. ST Urban Connect is a clothing store connected to ST Smoke Shop & Recording Studio with a legal address of 9685 Bissonnet Street.

<sup>33</sup> Ex. 19, Harris County Clerk Records, Assumed Name Certificate for ST Smoke Shop & Recording Studio

<sup>34</sup> Ex. 20, Harris County Clerk Records, Assumed Name Certificate for ST Urban Connect

<sup>35</sup> Ex. 21, Harris County Clerk Records, Assumed Name Certificate for ST Urban Connections

enforcement investigation described herein.<sup>36</sup> For example, the suite with the ST Urban Connect sign over it also has an ST Smoke Shop sign in the window.<sup>37</sup>

33. The Partnership also employs Justin Finch and Dandy Chavez. Based on the Houston Police Department Incident Report, all of the Individual Defendants participated in the distribution and sale of synthetic cannabinoids at the smoke shop.<sup>38</sup> As an employee, Mr. Finch provided for the day to day operations of the shop. Mr. Finch was present during an undercover investigation and distributed controlled substances, synthetic cannabinoids, to undercover officers on April 20, 2016.<sup>39</sup> Chavez was present during the execution of an HPD search warrant on April 21, 2016 and was subsequently arrested for the possession of a controlled substance, synthetic cannabinoids.<sup>40</sup>

34. NJV Landmark, Ltd., the Landlord Defendant, owns and controls the real property at 9685 Bissonnet Street, Houston, Texas 77035, which is the legal address of the shopping center containing the Smoke Shop.<sup>41</sup> JVC Landmark, Inc., is the general partner of NJV Landmark, Ltd, and thus controls the day to day operations of the limited partnership, NJV Landmark, Ltd.<sup>42</sup>

***D. Undercover Buys of Synthetic Marijuana and Search Warrant Produced Synthetic Marijuana Found at Defendants' Business***

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<sup>36</sup> Ex. 17, Harris County Appraisal District, Business Personal Property Account Information, 9681 Bissonnet Street, Houston, Texas 77036. ST Smoke Shop & Recording Studio.

<sup>37</sup> Ex. 27  
<https://www.google.com/maps/@29.6744997,95.5465737,3a,15y,312.01h,89.58t/data=!3m6!1e1!3m4!1sNaFfERqfGRKWR0heRrM5yQ!2e0!7i13312!8i6656!6m1!1e1?hl=en>

<sup>38</sup> Ex. 22, Houston Police Department Incident Report #504721-16 for April 20, 2016.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Ex. 17, Harris County Appraisal District, Real Property Account Information, 9685 Bissonnet Street, Houston, TX 77036; Ex. 23, Texas Secretary of State Record Certified Filings, NJV Landmark Ltd.

<sup>42</sup> Ex. 23, NJV Secretary of State Filings

35. On April 20, 2016, two undercover officers with the Houston Police Department (“HPD”) Narcotics Division conducted an investigation at the ST Smoke Shop.<sup>43</sup>

36. Officer J. M. and Officer P. E. entered the business in plain clothes and walked up to a white male working behind the counter later identified as Justin Finch and asked Finch to purchase “Kush.”<sup>44</sup> Finch stated to the officers that they did not sell Kush and was not sure where it is sold.<sup>45</sup>

37. Officer J.M asked Finch if they had “Scooby Snacks” (“Scooby Snax”).<sup>46</sup> Finch told the officers “no” but then began providing a list of the types of synthetic cannabinoids that he had along with the prices.<sup>47</sup> Using the provided list, Officer J.M. told Finch that he wanted to buy “Klimax 3x”, synthetic cannabinoids, for \$25.<sup>48</sup>

38. The Officers observed Finch meet with a Hispanic man and walk to the back of the store out of sight before returning with a package of synthetic cannabinoids.<sup>49</sup> Officer J.M. gave Finch \$40 in exchange for the package and observed Finch put the cash into the register located at the front of the store.<sup>50</sup> Finch produced \$7 in change and followed Officers J.M and P.E. as they exited the store and left in their unmarked cars.<sup>51</sup>

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<sup>43</sup> Ex. 22. Houston Police Department Incident Report #504721-16 for April 20, 2016.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

39. The Houston Forensic Science Center Controlled Substances Section (“Forensic Science Center”) determined that the net weight of the drugs in the package labeled “Klimax 3x” was 10.57 grams, and found that the substance in the bag contained 5F-AMB and NM2201 – both synthetic cannabinoids.<sup>52</sup> 5F-AMB and NM2201 are Texas Schedule I Substances as synthetic cannabinoids and are Penalty Group 2-A drugs under Texas Law. *See* Texas Health & Safety Code § 481.1031(b)(5).

40. On April 21, 2016, officers with the HPD Narcotics Division executed a narcotics search warrant at the ST Smoke Shop.<sup>53</sup> Officers detained six customers, the security guard, and Dandy M. Chavez, the sole employee working at the time of the search.<sup>54</sup> Dandy M. Chavez was found to have 6 bags of synthetic cannabinoids, weighing 66.5 grams, on his person.<sup>55</sup> Mr. Chavez was transported and booked into central jail.<sup>56</sup>

41. HPD officers conducted a search or the ST Smoke Shop and found a pill bottle containing 10.3 grams of marijuana, 1.8 grams of hash oil also in a pill bottle, and 48.8 grams of codeine inside a prescription bottle with the information blacked out on the counter located behind Chavez had been standing.<sup>57</sup>

42. Additionally, 91.4 grams of synthetic cannabinoids were recovered throughout the store, and officers recovered an additional 285.6 grams of synthetic cannabinoids from the bottom of a

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<sup>52</sup> Ex. 24, Harris County Institute of Forensic Sciences Laboratory Report for Harris County Sheriff’s Office Incident Report 0504721-16.

<sup>53</sup> Ex. 25, Houston Police Department Incident Report #508490-16 for April 21, 2016.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

trash bag.<sup>58</sup> Officer J.M. searched the cash register used by Finch on April 20, 2016 to deposit the undercover money and recovered \$1,054 in cash.<sup>59</sup> The total narcotics recovered was 77.7 grams of marijuana, 443.5 grams synthetic marijuana, 1.8 grams hash oil, and 48.8 grams codeine.<sup>60</sup>

43. The Forensic Science Center tested a package of recovered synthetic cannabinoids labeled “Orange Jungle 6X” weighing 8.40 grams, and found that the substance in the bag contained FUB-AMB, a synthetic cannabinoid also known as “MMB-FUBINACA.”<sup>61</sup> FUB-AMB is classified as a synthetic cannabinoid and is a Penalty Group 2-A drug under Texas Law. *See* Texas Health & Safety Code § 481.1031(b)(5).

44. Under Texas law, it is a crime to deliver or possess a synthetic cannabinoid, and synthetic cannabinoids are classified as Penalty Group 2-A drugs. *See* Tex. Health & Safety Code §§ 481.1031, 481.113, 481.1161. Under Texas and federal law, it is a crime to manufacture, distribute, dispense or possess a Schedule I drug or synthetic cannabinoid. Tex. Health & Safety Code §§ 481.1031, 481.1161, 481.113, 481.119; 21 U.S.C. §§ 841, 844.

45. In 2014, the City of Houston passed Ordinance § 28-572 outlawing synthetic marijuana, including the product labeled as “Kush.”<sup>62</sup> Violation of the ordinance carries a criminal penalty of up to \$2,000 per violation.

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Ex. 26, Harris County Institute of Forensic Sciences Laboratory Report for Harris County Sheriff’s Office Incident Report 0508490-16

<sup>62</sup> Ex. 16, City of Houston Kush Ordinance.

46. The Texas Legislature has recently amended the Penalty Group 2-A definition of the Texas Controlled Substances Act such that 5F-AMB, NM2201, and FUB-AMB are more specifically defined as Penalty Group 2-A drugs.<sup>63</sup>

47. The Texas Legislature has also recently amended the DPTA to make it a per se DTPA laundry list violation to make a deceptive representation or designation about synthetic marijuana or cause confusion or misunderstanding as to the effects of synthetic marijuana when consumed or ingested. DTPA § 17.46(b)(30).

***E. Defendants Have Engaged In False, Misleading and Deceptive Trade Practices And Maintain A Common Nuisance.***

48. By possessing, selling, offering for sale, and participating in the distribution of synthetic cannabinoids, including “Kush”, the Partnership, the Individual Defendants, and their respective agents have, in the conduct of trade and commerce, engaged in false, misleading and deceptive acts and practices declared unlawful under the DTPA.

49. The packaging of the synthetic marijuana sold by the Partnership, the Individual Defendants, and their respective agents is deceptive. The packaging of the synthetic marijuana products fails to disclose that they contain dangerous and illegal hallucinogenic chemicals.

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<sup>63</sup> Tex. Health & Safety Code § 481.1031(b)(5):

(b) Penalty Group 2-A consists of any material, compound, mixture, or preparation that contains any quantity of a natural or synthetic chemical substance, including its salts, isomers, and salts of isomers, listed by name in this subsection or contained within one of the structural classes defined in this subsection:

....

(5) any compound containing a core component substituted at the 1-position to any extent, and substituted at the 3-position with a link component attached to a group A component, whether or not the core component or group A component are further substituted to any extent, including . . . .”

5F-AMB is a compound having the following components: indazole (core), carboxamide (link), and methyl methoxy oxobutane (group A) in accordance with Tex. Health & Safety Code § 481.1031(b)(5). Ex. 22. NM2201 is a compound having the following components: indazole (core), carboxylate (link), and naphthalene (group A) in accordance with Tex. Health & Safety Code § 481.1031(b)(5). Ex. 22. FUB-AMB is a compound having the following components: indazole (core), carboxamide (link), and methyl methoxy oxobutane (group A) in accordance with Tex. Health & Safety Code § 481.1031(b)(5). Ex. 24.

Defendants knew or should have known that the substances they were packaging and selling to retail customers were illegal.

50. Defendants did nothing to warn consumers that the synthetic marijuana products were illegal and dangerous. The packaging contains no ingredient lists or warnings of any kind. There is no mention that the key ingredients, 5F-AMB, NM2201, and FUB-AMB, are highly addictive and dangerous chemicals, Schedule I drugs, and Penalty Group 2-A drugs. The lack of identifying packaging is itself misleading due to its failure to disclose the dangers of the substance. By selling synthetic marijuana at their store, Defendants deliberately mislead consumers into believing that these products are legal and safe.

51. The Partnership, the Individual Defendants, and their respective agents know or should know the actual content of the products they are selling to consumers is illegal and dangerous, and they deliberately fail to disclose this information in order to induce consumers to buy the products. The suspicious circumstances of finding an unlabeled trash bag full of a leafy substance determined to be a synthetic cannabinoid points to Defendants' awareness that the substance was illegal or at best their conscious indifference to whether the substance was legal.

52. Further, the suspicious circumstances of keeping the synthetic marijuana in the back store room out of sight, requiring customers to ask for it by name, providing no identifying markings on the packaging, and charging an inflated price (\$25 for 10 grams)<sup>64</sup> also confirms that the Partnership, the Individual Defendants, and their respective agents knew or should have known that the product being sold is illegal and harmful to consumers. Potential unsuspecting consumers who purchase these products from the Partnership, the Individual Defendants, and

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<sup>64</sup> The cost of the leafy substances listed as ingredients in a single packet of Kush is approximately 77 cents. The average retail price charged by Defendants is \$25 for 10 grams.

their respective agents are exposed to the physical dangers of 5F-AMB, NM2201, and FUB-AMB, as well as serious potential criminal liabilities.

53. Defendants knowingly participated in and tolerated the illegal activity of selling, delivering, and possessing controlled substances at the smoke shop. The Partners have at all relevant times been involved in the day to day operations and management of the ST Smoke Shop and on information and belief knowingly participated in and/or tolerated the illegal activities described herein.

54. Furthermore, the Defendants Justin Finch and Dandy Chavez, have also participated in and were involved in the day to day operations and management of the ST Smoke Shop and on information and belief knowingly participated in and/or tolerated the illegal activities described herein. The Landlord and In Rem Defendants are aware or should be aware of habitual criminal activity taking place on the premises of 9685 Bissonnet Street, and have not taken steps to abate this criminal activity.

**X. COMMON NUISANCE: TEX. CIV. PRAC. & REM. CODE §§ 125.001–125.047**

55. The Plaintiff State of Texas incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

56. Chapter 125 of the Texas Civil Practice & Remedies Code defines a common nuisance. Section 125.0015(a) states “[a] person who maintains a property to which persons habitually go for [certain] purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance.” The purposes that give rise to a common nuisance include “delivery, possession, manufacture or use of a controlled substance in violation of Chapter 481 of the [Texas] Health & Safety Code.” Tex. Civ. Prac. & Rem. Code § 125.0015(a)(4).

57. The ST Smoke Shop at 9685 Bissonnet Street, Houston, Texas constitutes a common nuisance under Tex. Civ. Prac. & Rem. Code § 125.0015(a)(4) because persons habitually go to this store to purchase and possess a controlled substance in violation of Chapter 481 of the Texas Health & Safety Code. Defendants own, maintain, operate, or use the stores and knowingly tolerate the nuisance activity and further fail to make reasonable attempts to abate the nuisance activity. Tex. Civ. Prac. & Rem. Code §§ 125.002(b), 125.0015(a)(4).

58. This action is brought by the State to request injunctive relief to abate this nuisance and enjoin Defendants from maintaining or participating in the nuisance and for any other reasonable requirements to prevent the use of these stores as a common nuisance. Tex. Civ. Prac. & Rem. Code § 125.002(b),(e).

59. Plaintiff requests that upon issuance of injunctive relief each of Defendants be ordered to post a bond in the name of the State to be forfeited to the State in the event of a violation by Defendants of the injunction. Tex. Civ. Prac. & Rem. Code § 125.003. The bond must be payable to the State of Texas, be in the amount set by the Court, but no less than \$5000 nor more than \$10,000, have sufficient sureties approved by the Court, and be conditioned that the Defendants will not knowingly allow a common nuisance to exist at the 9685 Bissonnet Street location. *Id.*

60. Based upon § 125.002 of the Texas Civil Practice & Remedies Code, if the judgment is in favor of the Plaintiff, the Court shall grant an injunction ordering Defendants to abate the nuisance and be enjoined from maintaining or participating in the common nuisance. The Court may include in the order reasonable requirements to prevent the use or maintenance of the place as a nuisance. The judgment must order that the location where the nuisance was found is closed for one year.

61. Pursuant to § 125.003(a) of the Texas Civil Practice & Remedies Code, should any condition of the bond or any injunctive order by this Court be violated, the State may sue upon the bond and upon showing a violation of any condition of the bond or injunctive order, the whole sum of the bond should be ordered forfeited to the State and the location where the nuisance was found should be closed for one year. In addition, in accordance with § 125.002(d) of the Texas Civil Practice & Remedies Code, a person who violates a temporary or permanent injunctive order is subject to the following sentences for civil contempt: a) a fine of not less than \$1000 nor more than \$10,000; b) confinement in jail for a term of not less than 10 nor more than 30 days; and c) both a fine and confinement. If a Defendant violates the temporary or permanent injunction, under § 125.045(b), the Court may make additional orders to abate the nuisance.

62. On violation of the bond or injunction, the place where the nuisance exists shall be ordered closed for one year from the date of the order of bond forfeiture. *Id.*

**XI. VIOLATIONS OF THE DTPA: TEX. BUS. & COM. CODE §§ 17.41–17.63**

63. The Plaintiff State of Texas incorporates and adopts by reference the allegations contained in each and every preceding paragraph of this petition.

64. As alleged and detailed above Defendants have, in the conduct of trade and commerce, engaged in false, misleading, or deceptive acts or practices in violation of DTPA § 17.46(a)

65. Defendants, in the course and conduct of trade and commerce, have directly or indirectly engaged in false, misleading, and deceptive acts and practices declared to be unlawful by the

DTPA by:

- (a) Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services, in violation of DTPA, § 17.46(b)(2);

- (b) Causing confusion or misunderstanding as to affiliation, connection, or association with, or certification by, another, in violation of DTPA, § 17.46(b)(3);
- (c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have, or that a person has a sponsorship, approval, status, affiliation, or connection which he does not have, in violation of DTPA, § 17.46(b)(5);
- (d) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another, in violation of the DTPA, § 17.46(b)(7);
- (e) Failing to disclose information concerning goods or services which was known at the time of the transaction if such failure to disclose such information was intended to induce the consumer into a transaction which the consumer would not have entered had the information been disclosed, in violation of the DTPA, § 17.46(b)(24); and
- (f) In the production, sale, distribution, or promotion of a synthetic substance that produces and is intended to produce an effect when consumed or ingested similar to, or in excess of, the effect of a controlled substance or controlled substance analogue, as those terms are defined by Section 481.002, Health and Safety Code:
  - i) Making a deceptive representation or designation about the synthetic substance, in violation of the DTPA, § 17.46(b)(30)(A), and
  - ii) Causing confusion or misunderstanding as to the effects the synthetic substance causes when consumed or ingested, in violation of the DTPA, § 17.46(b)(30)(B).

**XII. DISGORGEMENT/CONSTRUCTIVE TRUST/UNJUST ENRICHMENT**

66. Plaintiffs incorporate and adopt by reference the allegations contained in each and every preceding paragraph of this petition.

67. Plaintiffs request the Court impose a constructive trust over the assets and funds Defendants derived from the sale of illegal controlled substances to the public. Defendants would be unjustly enriched if allowed to retain the proceeds and assets from their criminal activities in selling illegal substances. Defendants' assets are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefits that would be unjust for Defendants to retain, including all ill-gotten gains and benefits or profits that have resulted from Defendants' promotion and sale of illegal substances as legal and safe. Plaintiffs pray that Defendants be ordered to disgorge all monies taken from consumers as a result of Defendants' deceptive practices, together with all the proceeds, profits, income, interest, and assets acquired with the proceeds of Defendants' deceptive practices. Plaintiffs further pray that the Court enjoin Defendants from transferring, moving, concealing, spending, or withdrawing funds derived from the sale of illegal controlled substances to the public.

**XIII. APPLICATION FOR TEMPORARY RESTRAINING ORDER, TEMPORARY INJUNCTION AND PERMANENT INJUNCTION**

68. Plaintiffs have reason to believe that the Defendants are engaging in, have engaged in, or are about to engage in acts and practices declared to be unlawful under the DTPA. Plaintiffs believe these proceedings to be in the public interest. Therefore, pursuant to DTPA § 17.47(a) and § 17.60(4), Plaintiffs request relief by way of a Temporary Restraining Order, Temporary Injunction, and Permanent Injunction as set forth in the Prayer.

69. Further, pursuant to Chapter 125 of the Texas Civil Practice & Remedies Code, Plaintiffs request the Court enjoin Defendants from maintaining or participating in the common nuisance described herein, *i.e.*, delivery and possession of controlled substances in violation of Chapter 481 of the Texas Health & Safety Code at the ST Smoke Shop located at 9685 Bissonnet Street, Houston, Texas, and order such requirements as to prevent the ongoing nuisance activity in Harris County, Texas. Tex. Civ. Prac. & Rem. § 125.002(b)(e). Plaintiffs are not required to verify facts in support of injunctive relief to abate the nuisance activity. Tex. Civ. Prac. & Rem. § 125.002(a).

70. Plaintiffs further request the Court find Plaintiffs are likely to succeed on the merits on its claim for common nuisance and include in the Court's temporary injunction order (i) reasonable requirements to prevent the use or maintenance of ST Smoke Shop as a nuisance, and (ii) require that Defendants execute a bond of not less than \$5,000 nor more than \$10,000, payable to the State, with sufficient sureties and conditioned that Defendants will not maintain a common nuisance. Tex. Civ. Prac. & Rem. Code § 125.045(a).

71. Further, Plaintiffs request immediate relief to preserve and protect the monies obtained by Defendants in violation of Texas law. The Individual and Partnership Defendants have engaged in continuing criminal activities and it is likely these Defendants will dissipate or conceal these monies pending final trial.

72. Plaintiffs believe immediate injunctive relief by way of Temporary Restraining Order and Temporary Injunction is necessary to prevent continuing harm prior to trial.

73. The Court shall issue such injunctive relief without requiring a bond from the Plaintiffs. DTPA § 17.47(b); Tex. Civ. Prac. & Rem. Code § 6.001(a).

#### **XIV. REQUEST TO CONDUCT DISCOVERY PRIOR TO**

### **TEMPORARY INJUNCTION HEARING**

74. Plaintiffs request leave of this Court to conduct depositions of witnesses and parties prior to any scheduled Temporary Injunction Hearing and prior to Defendants' answer date. There are a number of victims and other witnesses who may need to be deposed prior to any scheduled injunction hearing. Any depositions, telephonic or otherwise, would be conducted with reasonable, shortened notice to Defendants and their attorneys. Also, Plaintiffs request that the filing requirements for business records and the associated custodial affidavits be waived for purposes of all temporary injunction hearings.

### **XV. TRIAL BY JURY**

75. Plaintiffs herein request a jury trial and tender the jury fee to the Harris County District Clerk's office pursuant to Texas Rule of Civil Procedure 216 and the Texas Government Code § 51.604.

### **XVI. CONDITIONS PRECEDENT**

76. All conditions precedent to Plaintiffs' claims for relief have been performed or have occurred.

### **XVII. REQUEST FOR DISCLOSURE**

77. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

### **XVIII. PRAYER**

78. Plaintiffs pray that Defendants be cited according to law to appear and answer herein.

79. Plaintiffs pray that the TEMPORARY RESTRAINING ORDER be issued, and that after due notice and hearing, a TEMPORARY INJUNCTION be issued, and upon final hearing a PERMANENT INJUNCTION be issued, restraining, and enjoining Defendants, Defendants' officers, agents, servants, employees, attorneys—and any other person in active concert or participation with any or all Defendants—from engaging in the following acts or practices without further order of the Court:

- (a) Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials—including electronic documents—relating to the purchase and sale of synthetic cannabinoids, including Kush, that are currently or hereafter in any of the Defendants' possession, custody or control except in response to further orders or subpoenas in this cause;
- (b) Transferring, spending, hypothecating, concealing, encumbering or removing from the jurisdiction of this Court any money, stocks, bonds, assets, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in possession of, or claimed by any of the Defendants, insofar as such property relates to, arises out of or is derived from the business operations of Defendants except in response to further orders by the Court;
- (c) Selling or offering for sale controlled substances on Defendants' premises, including but not limited to synthetic substances containing 5F-AMB, NM2201, and FUB-AMB;

- (d) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any products containing controlled substances or synthetic cannabinoids, including but not limited to synthetic substances containing 5F-AMB, NM2201, and FUB-AMB;
- (e) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is labeled “not for human consumption” or words to that effect when the purpose of the product is for consumers to inhale, ingest, or introduce the product into the human body to mimic the effects of controlled substances;
- (f) Manufacturing, purchasing, delivering, offering for sale, holding, selling, or giving away any product that is intended for human consumption and contains deceptive labeling that falsely implies the product is legal when it is not;
- (g) Representing, directly or indirectly, that goods have characteristics, ingredients, uses, or benefits, which they do not have by advertising, offering to sell, or selling any products labeled household products, such as potpourri, incense, or bath salts, when the products contain synthetic substances that mimic the effects of drugs and/or controlled substances;
- (h) Offering for sale or selling products intended to serve as alternatives to controlled substances to stimulate, sedate, or cause hallucinations or euphoria when introduced into the body, such as through inhalation or ingestion;
- (i) Offering for sale or selling products that are false, misleading, or deceptive because the labeling lacks the name and address of the manufacturer, packer or

distributor, the ingredients, the net quantity of contents in terms of weight or mass in both pound and metric units; and a statement of the identity of the commodity;

- (j) Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods by advertising, offering to sell, or selling any products with synthetic substances that mimic the effects of controlled substances;
- (k) Failing to disclose information regarding possible side-effects, such as paranoia, hallucinations, pains like a heart attack or rapid heartbeat, seizures, panic, passing out, and suicidal thoughts, from using products with synthetic substances that mimic the effects of drugs and/or controlled substances, which information was known at the time of the transaction, if such failure to disclose was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed;
- (l) Failing to cooperate with authorized representatives of the State and Harris County, including law enforcement representatives, in locating and impounding all synthetic marijuana products in Defendants' custody, care and control or located on Defendants' premises and preserving all documents related to purchase and sale of synthetic marijuana products in Defendants' custody, care or control; and
- (m) Failing to preserve video surveillance of the Defendants' store premises and to maintain and operate video surveillance of the premises and provide copies of the video surveillance to Plaintiff's counsel upon request.

80. Plaintiffs further pray that the Court place an equitable lien and constructive trust upon the Individual Defendants' and Partnership Defendants' assets, personal property, and real property and grant the State an interest in said property;

81. Plaintiffs further pray that upon final hearing that this Court order each Defendant to pay the Plaintiffs' attorney fees and costs of court pursuant to the Tex. Gov't. Code § 402.006(c). Plaintiffs further prays for recovery of reasonable attorneys' fees, investigative costs, court costs, witness fees, and deposition fees pursuant to Texas Civil Practice & Remedies Code § 125.003(b),(d).

82. Plaintiffs further pray that this Court grant all other relief to which the Plaintiffs, the State of Texas and City of Houston, are entitled.

Respectfully submitted,

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I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this November 2, 2016

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Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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