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FILED
YOLO SUPERIOR COURT
MAY 25 2016
BY A. SALCIDO
DEPUTY

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF YOLO

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11 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No. CV14-857
12 Plaintiff,)
13 v.) COMPLAINT FOR INJUNCTIVE
14) RELIEF, CIVIL PENALTIES, AND
15 OHANA HAWAIIAN BARBECUE, INC.,) OTHER RELIEF
16 Defendant,) (Business & Professions Code, § 17200 et
17) seq.)
18) Exempt from fees per Gov. Code, § 6103

19 1. Plaintiff, the People of the State of California, by and through Jeff W. Reisig, District
20 Attorney of Yolo County, hereby allege the following upon information and belief:

21 **PARTIES**

22 2. Plaintiff is the People of the State of California. The People bring this action by and
23 through Jeff W. Reisig, District Attorney of Yolo County. The authority of the District Attorney of
24 Yolo County to bring this action is derived from statutory language of the State of California,
25 specifically Business and Professions Code section 17200 *et seq.*

26 3. Defendant Ohana Hawaiian Barbecue, Inc. ("Ohana") is a California Corporation that
27 owns and operates a restaurant based in Davis, California. Ohana's principal place of business is
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1 within Yolo County.

2 **JURISDICTION AND VENUE**

3 4. This Court has jurisdiction over Ohana because all causes of action asserted herein
4 arise out of Ohana's conduct in Yolo County, California.

5 5. Venue is proper in this Court under Code of Civil Procedure section 395.5 because
6 Ohana's principal place of business is in Yolo County, California.

7 6. Venue is also proper in this Court under Code of Civil Procedure section 393 because
8 the causes of action alleged in this complaint arose out of Ohana's conduct in Yolo County,
9 California.

10 **GENERAL ALLEGATIONS**

11 7. Ohana has owned and operated a restaurant based in Davis, California at all relevant
12 times and since at least 2007.

13 8. Over the past four years, Ohana has repeatedly violated provisions of Health and
14 Safety Code sections 113700-113725.3.

15 9. From 2012 to August 23, 2013, Ohana regularly failed, among other things, to hold
16 potentially hazardous foods at required temperatures, in violation of Health and Safety Code section
17 113996.

18 10. On August 23, 2013, the Yolo County Environmental Health Division held a hearing
19 relating to Ohana's repeated failure to comply with the Health and Safety Code.

20 11. At the August 23, 2013 hearing, the Environmental Health Division explained
21 relevant food-safety requirements to Ohana and the consequences of Ohana's failing to comply with
22 these requirements. But the Environmental Health Division did not levy any fines against Ohana or
23 revoke its permit at the hearing.

24 12. In the years following the hearing, August 23, 2013 to May 2, 2015, Ohana continued
25 to violate food-safety requirements, including, among other things, the following requirements:

26 a. The requirement to hold potentially hazardous foods at required temperatures, in
27 violation of Health and Safety Code sections 113996, 114002, and 114002.1;

28 b. The requirement to protect foods from cross-contamination, in violation of Health

- 1 and Safety Code section 113986;
- 2 c. The requirement to maintain adequate food storage, in violation of Health and
- 3 Safety Code section 114047;
- 4 d. The requirement to maintain food in a clean, dry location, in violation of Health
- 5 and Safety Code section 114047;
- 6 e. The requirement that food employees be adequately trained in food safety, in
- 7 violation of Health and Safety Code section 113947;
- 8 f. The requirement to accurately represent offered food, in violation of Health and
- 9 Safety Code section 114087;
- 10 g. The requirement to separate cutting boards used for meats and vegetables, in
- 11 violation of Health and Safety Code section 113967; and
- 12 h. The requirement to maintain a probe thermometer to check food temperatures, in
- 13 violation of Health and Safety Code section 114159.

14 13. As a result of these violations, the Environmental Health Division held a second

15 administrative hearing on May 2, 2015 in which it considered whether to revoke Ohana's permit to

16 operate.

17 14. At the May 2, 2015 hearing, one of Ohana's co-owners presented the Environmental

18 Health Division with a plan describing actions Ohana would take to prevent future violations of

19 food-safety requirements.

20 15. In a May 13, 2015 decision, the Environmental Health Division decided against

21 revoking Ohana's permit to operate on the condition that, among other things, Ohana implement the

22 plan it presented at the hearing.

23 16. In the months following the decision, May 13, 2013 to January 4, 2016, Ohana

24 continued to violate food-safety requirements.

25 17. As a result of these violations, the Environmental Health Division held a third

26 administrative hearing on January 4, 2016 in which it considered whether to revoke Ohana's permit

27 to operate.

28 18. In a January 13, 2016 decision, the Environmental Health Division revoked Ohana's

1 permit to operate and required the restaurant to close for a minimum of seven days. But the
2 Environmental Health Division allowed Ohana to apply for a new permit on the condition that
3 Ohana, among other things, prepare a plan to describe how it would prevent repeated violations of
4 the Health and Safety Code.

5 19. Ohana re-opened on January 20, 2016, after the Environmental Health Division issued
6 Ohana a new permit to operate.

7 **FIRST CAUSE OF ACTION**

8 **(Business & Professions Code, § 17200 *et seq.*)**

9 20. Plaintiff restates and incorporates all previous paragraphs.

10 21. Within four years of the date of commencement of this action, Ohana engaged in,
11 among other things, the following, unlawful acts, omissions, and practices that constitute unfair
12 competition within the meaning of Business and Professions Code sections 17200 through 17208:

- 13 a. Ohana failed to hold potentially hazardous foods at required temperatures, in
14 violation of Health and Safety Code sections 113996, 114002, and 114002.1;
- 15 b. Ohana failed to protect foods from cross-contamination, in violation of Health and
16 Safety Code section 113986;
- 17 c. Ohana failed to maintain adequate food storage, in violation of Health and Safety
18 Code section 114047;
- 19 d. Ohana failed to maintain food in a clean, dry location, in violation of Health and
20 Safety Code section 114047;
- 21 e. Ohana failed to ensure that its employees were adequately trained in food safety,
22 in violation of Health and Safety Code section 113947;
- 23 f. Ohana failed to accurately represent offered food, in violation of Health and
24 Safety Code section 114087;
- 25 g. Ohana failed to separate cutting boards used for meats and vegetables, in violation
26 of Health and Safety Code section 113967; and
- 27 h. Ohana failed to maintain a probe thermometer to check food temperatures, in
28 violation of Health and Safety Code section 114159.

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PRAYER

WHEREFORE, the People respectfully request the following relief:

1. That Ohana, its successors, agents, representatives, employees, and its assigns be permanently enjoined from engaging in unfair competition as defined in Business and Professions Code section 17200, including, but not limited to, acts alleged in this Complaint, under the authority Business and Professions Code section 17203;
2. That the Court assess a civil penalty of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) against Ohana for each violation of Business and Professions Code section 17200, in an amount according to proof, but not less than TWENTY-FIVE THOUSAND DOLLARS (\$25,000), under the authority of Business and Professions Code section 17206;
3. That the People recover their costs of suit, including costs of investigation;
4. That the People receive all other relief to which they are legally entitled; and
5. That the Court award such other relief that it deems just, proper, and equitable.

Dated: May 25, 2016

Respectfully submitted,

JEFF W. REISIG
DISTRICT ATTORNEY



By: DAVID GREEN
Deputy District Attorney