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8 *Attorneys for the People of the State of California*

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF YOLO

11 THE PEOPLE OF THE STATE OF CALIFORNIA,) Case No. *CV17-2032*
12)
Plaintiff,)
13) COMPLAINT FOR INJUNCTIVE
v.) RELIEF, CIVIL PENALTIES, AND
14) OTHER RELIEF
15)
DANIEL LOPEZ, an individual; TOP SHELF MEDS,) (Bus. & Prof. Code, § 17200 et seq.)
16 INC., a California corporation; and DOES 1-50,)
inclusive,)
17) *Exempt from fees per Gov. Code, § 6103*
Defendants.)
18)

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

23 **PARTIES**

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

28 3. Defendant TOP SHELF MEDS, INC., at all times relevant, was a California

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YOLO SUPERIOR COURT
DEC 05 2017
BY L. MENDOZA
DEPUTY

1 corporation engaged in the cultivation of cannabis in Yolo County at the location of 37030 State
2 Highway 16, Woodland, California (the "Property").

3 4. Defendant DANIEL LOPEZ is a resident of California. At all relevant times,
4 DANIEL LOPEZ was the Chief Executive Officer, Secretary, Chief Financial Officer, and sole
5 Director of TOP SHELF MEDS, INC.

6 5. DOES 1 through 50, inclusive, are persons whose names and identities are unknown
7 to the People at this time, and the People therefore sue these defendants by their fictitious names.
8 The People will seek leave to amend this Complaint to allege the true names of DOES 1 through 50
9 once they have been determined. DOES 1 through 50 participated in some or all of the acts alleged
10 herein.

11 6. The named and unnamed defendants in this action are collectively referred to as
12 "Defendants."

13 7. Allegations in this Complaint of Defendants' acts or omissions include the acts and
14 omissions of Defendants' officers, agents, employees, and representatives that were committed while
15 acting within the course and scope of their employment or agency on behalf of Defendants.

16 8. All Defendants at all times acted as agents of one another. With regard to the conduct
17 and omissions alleged in this Complaint, each of the Defendants ratified the actions of the other
18 Defendants.

19 JURISDICTION AND VENUE

20 9. This Court has jurisdiction over Defendants because all causes of action asserted in
21 this Complaint arise out of Defendants' conduct in Yolo County, California.

22 10. Venue is proper in this Court under Code of Civil Procedure section 393 because the
23 causes of action alleged in this Complaint arose out of Defendants' conduct in Yolo County,
24 California.

25 LEGAL BACKGROUND

26 11. Counties, under their traditional land use and police powers, are authorized to regulate
27 cannabis cultivation within their jurisdictions. (See Cal. Const., art. XI, § 7.)

28 12. California statutory law explicitly recognizes the authority of counties to regulate

1 cannabis cultivation. For example, Proposition 64—a recently passed initiative relating to
2 cannabis—expressly recognizes the ability of local authorities to regulate cannabis activities. (See
3 Bus. & Prof. Code, § 26200 [Division 10 of the Business and Professions Code, the Medicinal and
4 Adult-Use Cannabis Regulation and Safety Act, “shall not be interpreted to supersede or limit the
5 authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed
6 under this division, including, but not limited to, local zoning and land use requirements, business
7 license requirements. . . .”].)

8 13. Consistent with the California Constitution and state law, Yolo County (the “County”)
9 adopted, on March 22, 2016, an ordinance governing cannabis cultivation within its jurisdiction.

10 14. The County amended its cannabis ordinance in October 25, 2016, and under the
11 October 25, 2016 amendment, and still today, cannabis cultivation in the County is prohibited unless
12 it falls within one of two exceptions.

13 15. The first exception is for “qualified patients.” To come within the exception, a person
14 must, among other things, grow cannabis exclusively for his or her personal medical use, and have
15 cannabis plants that occupy no more than 100 square feet. (Yolo County Code, §5-20.04(A)(1).)

16 16. The second exception is for permitted growers. To come within this exception, the
17 person must, among other things, have (1) submitted, by October 11, 2016, a notice of intent to
18 comply with a Central Valley Regional Water Quality Control Board order governing cannabis
19 cultivation (“Order R5-2015-0113”), and (2) obtained a County permit to cultivate medicinal
20 cannabis. (Yolo County Code, §5-20.04(A)(2).)

21 17. The County’s permitting scheme for cannabis cultivators requires, among other
22 things, that cultivators pay permitting fees, allow for sample collection for laboratory analysis of
23 their plants, allow for site inspections, and participate in a track-and-trace program intended to ensure
24 that cannabis grown in the County is compliant with the county code. (Yolo County Code, § 5-
25 20.04(A)(2)(a).) The track-and-trace program monitors permitted cultivators’ cannabis plants
26 throughout the production chain—from initial cultivation to market-ready product sold to medical
27 cannabis related businesses—and ensures that cannabis grown in Yolo County complies with local
28 and state laws and promotes public health and safety.

1 decision denying Defendants' appeal.

2 29. Defendants never appealed the County Administrator's Office's decision.

3 30. Despite being denied a permit to cultivate cannabis, Defendants nonetheless
4 established and maintained a cannabis grow of about 600 plants on the Property.

5 31. On or about June 28, 2017, a County employee, while driving past the Property, saw
6 signs on the Property indicating that cannabis was being cultivated on site.

7 32. On or about July 12, 2017, at the direction of a County employee, a drone was flown
8 around 400 feet off the ground and 200-300 away from the airspace of the Property, and aerial
9 photographs were taken of the Property. The photographs showed a cannabis grow on the Property
10 containing about 600 plants and covering thousands of square feet.

11 33. On or about July 19, 2017, Plaintiff mailed and emailed a letter to Defendants,
12 requesting that they meet with Plaintiff on July 31, 2017 to discuss the cannabis grow on the
13 Property. Defendants neither showed for the meeting date nor contacted Plaintiff.

14 34. On or about mid-August 2017, Defendants moved all cannabis plants, about 600 total,
15 off the Property. Defendants did not notify Plaintiff before moving the plants. Nor did Defendants
16 inform Plaintiff where they had moved the plants.

17 35. Defendants harvested the cannabis plants from the Property, and released the cannabis
18 product into state, local, and interstate commerce.

19 36. Defendants knowingly and flagrantly violated Yolo County law, and engaged in
20 conduct that poses a danger to the public health and safety.

21 37. Unlike permitted cannabis plants, Defendants' cannabis plants were never tracked to
22 ensure that they would be used for permitted uses only—that is, for medicinal use within California.

23 38. Unlike permitted cannabis plants, Defendants' cannabis plants were never tested to
24 ensure against excessive and harmful pesticide use.

25 39. Unlike permitted cannabis grows, Defendants never paid the permitting and
26 regulatory fees that all legal cannabis cultivators are required to pay.

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1 **FIRST CAUSE OF ACTION**

2 **(Violations of Unfair Competitions Law; Against all Defendants)**

3 **(Bus. & Prof. Code, § 17200 et seq.)**

4 40. The People restate and incorporate all previous paragraphs.

5 41. Section 17200 of the Business and Professions Code prohibits unfair competition—
6 meaning any unlawful, unfair, or fraudulent business act or practice; any unfair, deceptive, untrue, or
7 misleading advertising; and any act prohibited under Business and Professions Code section 17500.

8 42. Within four years of the date of commencement of this action, Defendants engaged in
9 unlawful acts, omissions, and practices that constitute unfair competition within the meaning of
10 Business and Professions Code sections 17200 through 17208—including but not limited to the acts
11 or omissions and practices alleged in this Complaint and the following acts below:

- 12 a. Engaged in the business of cultivating commercial cannabis without a valid
13 permit, in violation of Yolo County Code section 5-20.01 et seq.
- 14 b. Failed to register with the Yolo County Department of Agriculture before
15 cultivating cannabis, in violation of Yolo County Code section 5-20.07(G)(1).
- 16 c. Failed to pay applicable cannabis-cultivation fees, in violation of Yolo County
17 Code section 5-20.01 et seq.
- 18 d. Failed to enroll and participate in the track-and-trace program for cannabis
19 cultivation, and failed to pay any associated fees, in violation of Yolo County
20 Code section 5-20.01 et seq.

21 43. Unless enjoined by order of the Court, Defendants may or will continue in the course
22 of conduct as alleged in this Complaint.

23 44. Each and every separate unlawful act, and each and very separate cannabis plant
24 grown in violation of County code, constitutes an unlawful or unfair business practice. Each day that
25 Defendants engaged in each separate unlawful act, omission, or practice is a separate and distinct
26 violation of Business and Professions Code section 17200.

27 45. Based on the above, the People request injunctive relief against Defendants under
28 Business and Professions Code section 17203, and civil penalties against Defendants under Business

1 and Professions Code section 17206, as set forth in the People's prayer for relief.

2 **PRAYER**

3 WHEREFORE, the People respectfully request the following relief:

4 1. That Defendants and their successors, agents, representatives, employees, and assigns
5 be permanently enjoined from engaging in unfair competition as defined in Business and Professions
6 Code section 17200, including, but not limited to, the acts alleged in this Complaint;

7 2. That the Court assess a civil penalty of TWO THOUSAND FIVE HUNDRED
8 DOLLARS (\$2,500) against Defendants for each violation of Business and Professions Code section
9 17200, in an amount according to proof, but no less than THREE MILLION DOLLARS
10 (\$3,000,000);

11 3. That the People recover their costs of suit, including costs of investigation;

12 4. That the People receive all other relief to which they are legally entitled; and

13 5. That the Court award such other relief that it deems just, proper, and equitable.

14 Dated: December 5, 2017

15 Respectfully submitted,

16 JEFF W. REISIG
17 DISTRICT ATTORNEY

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19 By: DAVID GREEN
20 Deputy District Attorney