

1 MARA W. ELLIOTT, City Attorney
MARK ANKCORN, Senior Chief Deputy City Attorney
2 California State Bar No. 166871
ERIC LAGUARDIA, Deputy City Attorney
3 California State Bar No. 272791
JULIE RAU, Deputy City Attorney
4 California State Bar No. 317658
KEVIN B. KING, Deputy City Attorney
5 California State Bar No. 309397
Office of the City Attorney
6 1200 Third Avenue, Suite 1100
San Diego, California 92101-4100
7 Telephone: (619) 533-5800
Facsimile: (619) 533-5856

8 Attorneys for Plaintiff,
9 The People of the State of California

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To the benefit of the City of San Diego

10 **SUPERIOR COURT OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF SAN DIEGO**

12 The People of the State of California,

13 *Plaintiff,*

14 v.

15 Yazan R. Muowahid, individually; Top Tier SD
16 Inc. dba Miramar Smoke N Vape; Prime Cloud
Inc. dba Aroma Avenue Vape Shop; Oceanside
17 1405 Inc. dba Aroma Avenue Vape and Aroma
Avenue Vape 1; Royal State Investments LLC
18 dba Aroma Avenue; The Right Investment Inc.
dba Aroma Avenue 2 and Aroma Avenue 3;
19 JNYM Investment, Inc. dba Vape Avenue; Brea
USA Inc.; Chino USA Inc.; and Does 1-20
20 inclusive,

21 *Defendants*

Case No. 24CU024294C

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES
UNDER THE UNFAIR COMPETITION
LAW (Bus. & Prof. Code § 17200, Et Seq.)**

*(UNLIMITED MATTER Amount Demanded
Exceeds \$35,000)*

22
23 The People of the State of California (the People), acting by and through San Diego City
24 Attorney Mara W. Elliott, allege the following based on information and belief:

25 1. Youth e-cigarette use is a serious public health concern nationwide. The nicotine
26 from e-cigarettes is highly addictive and is particularly problematic for youth due to its effects on
27 brain development. Flavored tobacco products are especially dangerous as an easy “on ramp” to
28 nicotine addiction; the overwhelming majority of young smokers use flavored e-cigarettes.

1 Nicotine addiction can prime youth to use other addictive substances, like traditional cigarettes,
2 alcohol, and drugs. Nicotine use can also cause reduced impulse control, deficits in attention and
3 cognition, and mood disorders.¹

4 2. The growth of e-cigarette use by youth has been fueled by the manufacturing and
5 advertisement of kid-friendly flavors, like cotton candy, bubblegum, and a wide range of fruits.
6 In 2024, approximately 10.1% of high school students and 5.4% of middle school students were
7 using tobacco products – putting millions of teens at risk of nicotine addictions and its associated
8 harms. E-cigarettes remain the most commonly used tobacco product by teens, and most teen, e-
9 cigarette users (87.6%) used flavored tobacco products.²

10 3. To combat this public health concern, both California and the City of San Diego
11 prohibit the sale of flavored tobacco products to any person, including adults. Health & Safety
12 Code § 104559.5; San Diego Municipal Code §42.1603.

13 4. Despite these prohibitions – effective in the City of San Diego on December 21,
14 2022, and effective in California on January 1, 2023 – Yazan R. Muowahid has owned and
15 operated several stores throughout Southern California, under various corporate entities
16 (collectively “Defendants”), that sell flavored tobacco products in store and online. These
17 violations of state and local law constitute an unlawful business practice and violate California’s
18 Unfair Competition Law (“UCL”) Bus. & Prof. Code §§ 17200-17210.

19 5. Defendants’ conduct is also an unfair business practice under the UCL because
20 Defendants maintain an advantage over their law-abiding competitors by profiting from the sale
21 of prohibited products.

22
23 ¹ U.S. Department of Health and Human Services. *E-Cigarette Use Among Youth and*
24 *Young Adults. A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and
Human Services, Centers for Disease Control and Prevention, National Center for Chronic
Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

25 ² Jamal A, Park-Lee E, Birdsey J, et al. Tobacco Product Use Among Middle and High
26 School Students — National Youth Tobacco Survey, United States, 2024. *MMWR Morb Mortal*
Wkly Rep 2024;73:917–924. DOI: <http://dx.doi.org/10.15585/mmwr.mm7341a2>

27 Results from the Annual National Youth Tobacco Survey, Content current as of October
28 17, 2024. DOI: <https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey#2024%20Findings%20on%20Youth%20Tobacco%20Use>

1 **Jurisdiction and Venue**

2 6. The Superior Court has original jurisdiction over this action pursuant to Article
3 VI, Section 10 of the California Constitution, which grants the Superior Court original
4 jurisdiction in all causes other than those specifically enumerated therein.

5 7. The Superior Court has personal jurisdiction over Defendants because:
6 (i) Defendants’ principal places of business are in the State of California, (ii) Defendants are
7 authorized to and conduct business in and across this state, and (iii) Defendants otherwise have
8 sufficient minimum contacts with and purposefully avail themselves of the markets of this state,
9 thus rendering the Superior Court’s exercise of jurisdiction consistent with traditional notions of
10 fair play and substantial justice.

11 8. Venue is proper under Code of Civil Procedure section 393(a), because the illegal
12 acts described below occurred in the City and County of San Diego.

13 **Parties**

14 9. The People of the State of California bring this civil enforcement action by and
15 through San Diego City Attorney Mara W. Elliott pursuant to California Business and
16 Professions Code sections 17204 and 17206(a).

17 10. Defendant Top Tier SD Inc. dba Miramar Smoke N Vape is a California
18 corporation with its principal place of business in the City of San Diego – 9465 Black Mountain
19 Road, San Diego, CA 92126.

20 11. On information and belief, Yazan R. Muowahid is, and was at all relevant times,
21 the owner, Chief Executive Officer (CEO), Chief Financial Officer (CFO), and Secretary of Top
22 Tier SD Inc. On information and belief, Defendant Muowahid is a Responsible Corporate
23 Officer for Top Tier SD Inc. On information and belief, as the owner, CEO, CFO, and Secretary
24 of Top Tier SD Inc., Defendant Muowahid is in a position of responsibility, allowing him to
25 influence corporate policies and activities. On information and belief, there is a nexus between
26 Defendant Muowahid’s position as owner, CEO, CFO, and Secretary of Top Tier SD Inc., which
27 sells flavored tobacco products, and the violation in question – unlawfully selling flavored
28 tobacco products in violation of the UCL. On information and belief, Defendant Muowahid’s

1 actions and inactions facilitated the UCL violations.

2 12. Defendant Prime Cloud Inc. dba Aroma Avenue is a California corporation with
3 its principal place of business in the City of San Diego – 3504 College Blvd, Suite F, Oceanside,
4 CA 92056.

5 13. On information and belief, Defendant Muowahid is, and was at all relevant times,
6 the CEO and an owner of Prime Cloud Inc. On information and belief, Defendant Muowahid is a
7 Responsible Corporate Officer for Prime Cloud Inc. On information and belief, as the CEO and
8 owner of Prime Cloud Inc., Defendant Muowahid is in a position of responsibility, allowing him
9 to influence corporate policies and activities. On information and belief, there is a nexus between
10 Defendant Muowahid’s position as CEO and owner of Prime Cloud Inc., which sells flavored
11 tobacco products, and the violation in question – unlawfully selling flavored tobacco products in
12 violation of the UCL. On information and belief, Defendant Muowahid’s actions and inactions
13 facilitated the UCL violations.

14 14. Oceanside 1405 Inc. dba Aroma Avenue Vape and Aroma Avenue Vape 1 is a
15 California corporation with its principal place of business in the City of San Diego – 1405 S. El
16 Camino Real, Suite 5113, in Oceanside, CA 95024.

17 15. On information and belief, Defendant Muowahid is, and was at all relevant times,
18 the CEO and an owner of Oceanside 1405 Inc. On information and belief, Defendant Muowahid
19 is a Responsible Corporate Officer for Oceanside 1405 Inc. On information and belief, as the
20 CEO and owner of Oceanside 1405 Inc., Defendant Muowahid is in a position of responsibility,
21 allowing him to influence corporate policies and activities. On information and belief, there is a
22 nexus between Defendant Muowahid’s position as CEO and owner of Oceanside 1405 Inc.,
23 which sells flavored tobacco products, and the violation in question – unlawfully selling flavored
24 tobacco products in violation of the UCL. On information and belief, Defendant Muowahid’s
25 actions and inactions facilitated the UCL violations.

26 16. Defendant Royal State Investments LLC dba Aroma Avenue is a California
27 corporation with its principal place of business in the City of San Diego – 1405 S. El Camino
28 Real, Suite 5113, in Oceanside, CA 95024.

1 17. On information and belief, Defendant Muowahid is, and was at all relevant times,
2 the CEO and an owner of Royal State Investments LLC. On information and belief, Defendant
3 Muowahid is a Responsible Corporate Officer for Royal State Investments LLC. On information
4 and belief, as the CEO and owner of Royal State Investments LLC, Defendant Muowahid is in a
5 position of responsibility, allowing him to influence corporate policies and activities. On
6 information and belief, there is a nexus between Defendant Muowahid’s position as CEO and
7 owner of Royal State Investments LLC, which sells flavored tobacco products, and the violation
8 in question – unlawfully selling flavored tobacco products in violation of the UCL. On
9 information and belief, Defendant Muowahid’s actions and inactions facilitated the UCL
10 violations.

11 18. Defendant The Right Investment Inc. dba Aroma Avenue 2 and Aroma Avenue 3
12 is a California corporation with its principal place of business in the City of San Diego – 1405 S.
13 El Camino Real, Suite 5113, in Oceanside, CA 95024.

14 19. On information and belief, Defendant Muowahid is, and was at all relevant times,
15 the CEO and an owner of The Right Investment Inc. On information and belief, Defendant
16 Muowahid is a Responsible Corporate Officer for The Right Investment Inc. On information and
17 belief, as the CEO and owner of The Right Investment Inc., Defendant Muowahid is in a position
18 of responsibility, allowing him to influence corporate policies and activities. On information and
19 belief, there is a nexus between Defendant Muowahid’s position as CEO and owner of The Right
20 Investment Inc., which sells flavored tobacco products, and the violation in question –
21 unlawfully selling flavored tobacco products in violation of the UCL. On information and belief,
22 Defendant Muowahid’s actions and inactions facilitated the UCL violations.

23 20. Defendant JNYM Investment, Inc. dba Vape Avenue is a California corporation
24 with its principal place of business in Huntington Beach, CA – 16899 Beach Blvd, Huntington
25 Beach, CA 92647.

26 21. On information and belief, Defendant Muowahid is, and was at all relevant times,
27 the CFO of JNYM Investment, Inc. On information and belief, Defendant Muowahid is a
28 Responsible Corporate Officer for JNYM Investment, Inc. On information and belief, as the

1 CFO of JNYM Investment, Inc., Defendant Muowahid is in a position of responsibility, allowing
2 him to influence corporate policies and activities. On information and belief, there is a nexus
3 between Defendant Muowahid’s position as the CFO of JNYM Investment, Inc., which sells
4 flavored tobacco products, and the violation in question – unlawfully selling flavored tobacco
5 products in violation of the UCL. On information and belief, Defendant Muowahid’s actions and
6 inactions facilitated the UCL violations.

7 22. Defendant Brea USA Inc. is a California corporation with its principal place of
8 business in Brea, CA – 105 W. Lambert Rd, Brea, CA 92821.

9 23. On information and belief, Defendant Muowahid is, and was at all relevant times,
10 the CFO and Secretary of Brea USA Inc. On information and belief, Defendant Muowahid is a
11 Responsible Corporate Officer for Brea USA Inc. On information and belief, as the CFO and
12 Secretary of Brea USA Inc., Defendant Muowahid is in a position of responsibility, allowing him
13 to influence corporate policies and activities. On information and belief, there is a nexus between
14 Defendant Muowahid’s position as the CFO and Secretary of Brea USA Inc., which sells
15 flavored tobacco products, and the violation in question – unlawfully selling flavored tobacco
16 products in violation of the UCL. On information and belief, Defendant Muowahid’s actions and
17 inactions facilitated the UCL violations.

18 24. Defendant Chino USA Inc. is a California corporation with its principal place of
19 business in Chino, CA – 5480 Philadelphia St, Chino, CA 91710.

20 25. On information and belief, Defendant Muowahid is, and was at all relevant times,
21 the CFO of Chino USA Inc. On information and belief, Defendant Muowahid is a Responsible
22 Corporate Officer for Chino USA Inc. On information and belief, as the CFO of Chino USA Inc.,
23 Defendant Muowahid is in a position of responsibility, allowing him to influence corporate
24 policies and activities. On information and belief, there is a nexus between Defendant
25 Muowahid’s position as the CFO of Chino USA Inc., which sells flavored tobacco products, and
26 the violation in question – unlawfully selling flavored tobacco products in violation of the UCL.
27 On information and belief, Defendant Muowahid’s actions and inactions facilitated the UCL
28 violations.

1 Health & Safety Code § 104559.5(b)(1).

2 30. “Characterizing flavor means a distinguishable taste or aroma, or both, other than
3 the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the
4 tobacco product. Characterizing flavors include, but are not limited to, tastes or aromas relating
5 to any fruit, vanilla, chocolate, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint,
6 wintergreen, herb, or spice.” Health & Safety Code § 104559.5(a)(1) [internal quotations
7 omitted].

8 31. Effective January 1, 2023, in the City of San Diego, “[i]t is unlawful for any
9 person, business, tobacco retailer, or electronic cigarette retailer to sell or distribute flavored
10 tobacco products.” San Diego Municipal Code §42.1603(a) [emphasis omitted].

11 32. “Flavored tobacco products means a tobacco product that emits a taste or smell,
12 other than the taste or smell of tobacco, including but not limited to, any taste or smell relating to
13 fruit, mint, menthol, wintergreen, chocolate, cocoa, vanilla, honey, candy, dessert, alcoholic
14 beverage, herb, or spice.” San Diego Municipal Code §42.1602 [emphasis omitted].

15 33. Despite the state and local bans on selling tobacco flavored products, Defendants
16 have sold, and continue to sell, flavored tobacco products throughout Southern California,
17 including the City of San Diego.

18 34. In October 2024, City investigators, acting undercover, visited all of Defendants’
19 stores either in person or online. City investigators visited the Aroma Avenue stores in person.
20 City investigators were offered and sold flavored tobacco products at all three Aroma Avenue
21 locations.

22 35. Vape Avenue offers flavored vape products for sale in person and online. In
23 October 2024, City investigators visited the websites for all three locations, which directed them
24 to the same link for an online purchase. City investigators purchased flavored tobacco products
25 through Vape Avenue’s website and the products were delivered to La Mesa, CA. No signature
26 or personal identification was required for delivery.

27 36. Miramar Smoke N Vape offers flavored vape products for sale in person and
28 online. In October 2024, City investigators visited Miramar Smoke N Vape’s website and

1 purchased flavored tobacco products. Miramar Smoke N Vape shipped the flavored tobacco
2 products to the address provided by the City investigator and they were delivered. No signature
3 or personal identification was required for delivery.

4 37. Defendants' repeated, intentional, ongoing violations of the California and City of
5 San Diego ban on the sale of flavored tobacco products constitute unlawful and unfair business
6 practices under the UCL. The People seek injunctive relief ordering Defendants to cease selling
7 flavored tobacco products and to pay appropriate civil penalties.

8 **Cause of Action**

9 **Violation of Unfair Competition Law**

10 (Cal. Bus. & Prof. Code §§ 17200-17210.)

11 38. All preceding factual statements and allegations are incorporated by reference.

12 39. The UCL, Business and Professions Code section 17200 prohibits "any unlawful,
13 unfair or fraudulent business act or practice."

14 40. "Any person who engages, has engaged, or proposes to engage in unfair
15 competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars
16 (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the
17 name of the people of the State of California ... by any city attorney of a city having a
18 population in excess of 750,000 ... in any court of competent jurisdiction." Bus. & Prof. Code
19 § 17206(a).

20 41. The Business and Professions Code section 17206.1(a) also provides: "In addition
21 to any liability for a civil penalty pursuant to Section 17206, a person who violates this chapter,
22 and the act or acts of unfair competition are perpetrated against one or more senior citizens or
23 disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred
24 dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as
25 prescribed in Section 17206."

26 42. Defendants are "person(s)" as defined by the Business and Professions Code
27 section 17201, which includes "natural persons, corporations, firms, partnerships, joint stock
28 companies, associations and other organizations of persons."

1 43. Defendants' sale of flavored tobacco products is unlawful under California and
2 City of San Diego law and, therefore, constitutes an unlawful business practice under the UCL.
3 Defendants have been selling flavored tobacco products from December 21, 2022 (the effective
4 date of the statewide ban) to at least the date of this Complaint. Defendants have been selling
5 flavored tobacco products at their location in the City of San Diego from January 1, 2023 (the
6 effective date of the City of San Diego ban) to at least the date of this Complaint. Additionally,
7 Defendants have been selling flavored tobacco products to City of San Diego residents via online
8 retail from January 1, 2023 to at least the date of this Complaint. Each sale of a flavored tobacco
9 product, at each location and online, is a separate violation of state and local law and, as such,
10 constitutes a separate violation of the UCL.

11 44. Defendants' ongoing sale of flavored tobacco products also constitutes an unfair
12 business practice under the UCL. Defendants stock, sell, and profit from banned flavored
13 tobacco products, which leaves Defendants with an unfair advantage over its law-abiding retail
14 store competitors.

15 45. The People seek an appropriate civil penalty under Business and Professions
16 Code section 17206(a), up to \$2,500 for each violation to hold Defendants accountable for their
17 unlawful business acts or practices and to deter further violations of the law. The People also
18 seek an additional appropriate civil penalty under Business and Professions Code
19 section 17206.1(a)(1), up to \$2,500 for each violation perpetrated against a senior citizen or
20 disabled person.

21 46. Pursuant to California Business and Professions Code section 17203, the People
22 are entitled to an injunctive order requiring Defendants to cease selling flavored tobacco
23 products.

24 **Prayer for Relief**

25 Based on the above, the People request the following remedies:

26 47. Pursuant to Business and Professions Code section 17203, an order requiring
27 Defendants to cease selling flavored tobacco products in compliance with California Health and
28 Safety Code section 104559.5 and San Diego Municipal Code section 42.1603.

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48. Pursuant to Business and Professions Code section 17206, Defendants be assessed a civil penalty in an amount, up to \$2,500 for each violation of the UCL, as proven at trial;

49. Pursuant to Business and Professions Code section 17206.1, Defendants be assessed an additional civil penalty in an amount, up to \$2,500 for each violation of the UCL perpetrated against a senior citizen or disabled person, as proven at trial;

50. The People recover such costs of this action, including costs of investigation; and

51. The People be granted such other and further relief as this Court may deem to be just and proper.

Dated: November 20, 2024

MARA W. ELLIOTT, City Attorney



By: _____

Kevin B. King
Deputy City Attorney
Attorneys for Plaintiff,
The People of the State of California