



MAYWAY

Chinese herbs & herbal products since 1969

November 1, 2024

Re: E Jiao Products

Dear Valued Customer,

Currently there is a lawsuit involving sellers of E jiao (Equus asinus/ donkey) gelatin-containing products going through San Mateo County Court (see attached Complaint). As such, it has come to our attention that there is a piece of California legislation called Prop 6 that has implications for the sale of E jiao within California.

Although Mayway has not been named in the Complaint and while we think this law may not apply to our products, we have decided to at least temporarily halt the sale of our E jiao-containing products in California until we better understand the implications of this Proposition and suit. Affected products include:

Code#	Product Pinyin Name
3655	Fertile Fields Teapills/ Fu Ke Zhong Zi Wan
3340C	Jiao Ai San Extract Powder
3342C	Qing Zao Jiu Fei San Extract Powder
3657	Cultivate Splendor Teapills/ Yang Rong Wan
3396	Zhi Gan Cao Wan Teapills
5920C	E Jiao Extract Powder
5920SF	E Jiao Whole Herb

While we are not recommending any particular course of action to our distributors, we strongly suggest that you do your own research, including discussing the issue with your legal counsel.

Thank you for your understanding and cooperation.

Sincerely,

Mayway Herbs

Attachments

1 Corey Page (CSB# 218789)
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8 Attorney for Plaintiff

Electronically
FILED
2/14/2023
by Superior Court of California, County of San Mateo
ON
By /s/ Jennifer Torres
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN MATEO

23-CIV-00708

11 A. F. ROTHSCHILD FUND, d.b.a. Center for
12 Contemporary Equine Studies, a 501(c)(3) non-
profit corporation;

13 Plaintiff,

14 v.

15 KIMBERLY KIRCHMEYER, Director of
16 California Department of Consumer Affairs;
17 JOHN C. HARABEDIAN, President of
California Acupuncture Board;
18 AMAZON.COM, INC., a Delaware corporation;
19 OCM MEDICINE, INC., a California
Corporation; HERBAL SCIENCE
20 INTERNATIONAL, INC., a California
corporation; TS EMPORIUM, a California
21 Corporation; YAMI, a California corporation;
HYGIA HEALTHCARE, a California
22 Corporation; WING HOP FUNG GINSENG,
INC., a California corporation; BIO ESSENCE
23 HEALTH SCIENCE, a California corporation;
24 TCMZONE, LLC, an Arizona corporation; PO
WING HONG KONG FOOD MARKET, a New
25 York Corporation; GOLDEN NEEDLE
ACUPUNCTURE, HERBAL & MEDICAL
26 SUPPLY, INC., a North Carolina corporation;
27 RAINNEST, LLC, a North Carolina corporation;
HERB DEPOT, a foreign corporation of Canada;
28 NOURISHME ORGANICS, a foreign

CASE NO.:

**VERIFIED PETITION FOR WRIT OF
MANDATE; AND COMPLAINT FOR
DAMAGES, INJUNCTIVE RELIEF, AND
DECLARATORY RELIEF**

1 corporation of Australia; DONG-E-E-JIAO
2 CORPORATION LTD., a foreign corporation of
3 China; CHINA JO-JO DRUGSTORES, INC., a
4 foreign corporation of China;; SHANDONG
FUPAI DONGZHEN EJIAO CO., LTD., a
foreign corporation of China; and DOES 1 to 50;

5 Defendants.

6
7 **I.**

8 **INTRODUCTION**

9 1. This is an action under the California Unfair Competition Law to enjoin the unlawful
10 distribution and sale of *ejiao* - a food supplement/nutraceutical product derived from the skin of
11 slaughtered donkeys.

12 2. Recognizing equines as an important part of California’s heritage, and furthermore,
13 that equines deserve protection from slaughter, the people of California enacted Proposition 6, the
14 Prohibition of Horse Slaughter and Sale of Horsemeat for Human Consumption Act (“Proposition
15 6”) in 1998.

16 3. Proposition 6 prohibits the sale of any part of an equine for human consumption in
17 the State, inclusive of donkeys (codified at California Penal Code § 598d).

18 4. Corporate Defendants’ sale of *ejiao* products in California violates Proposition 6 and
19 therefore constitutes an unlawful business practice that must be enjoined under the California
20 Unfair Competition Law.

21 5. Additionally, notwithstanding Proposition 6’s prohibition of the sale any part of an
22 equine for human consumption in California, the California Acupuncture Board directs, in the
23 Preparation Guide for applicants seeking licensure to practice acupuncture in this State, that the
24 applicants train on the uses, benefits, and administration of *ejiao* in California as an herbal
25 supplement.
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1 15. Corporate Defendant Dong-E-E-Jiao Corporation Limited (“Dong-E-E-Jiao”) is a
2 corporation that manufactures and distributes ejiao products in California. The registered address
3 for Dong-E E-Jiao is No. 78 Ejiao Street, Donge County, Liaocheng, Shandong, 252201, China.

4 16. Corporate Defendant Herbal Science International, Inc is a corporation that
5 distributes ejiao products to consumers in California. The registered address for Herbal Science
6 International, Inc is 205 Russell Street, City of Industry, California 91744.

7 17. Corporate Defendant Shandong Fupai Dongezhen Ejiao Co., Ltd. (“Shandong
8 Fupai”) is a corporation that manufactures ejiao, and distributes ejiao products in California. The
9 registered address for Shandong Fupai is 3401D, Floor 34, Building 2, Shuntai Square, No.2000,
10 Shunhua Road, High-Tech Zone Jinan, Shandong, China 250000.

11 18. Corporate Defendant China Jo-Jo Drugstores, Inc., is a corporation that sells ejiao
12 products online to consumers in California. The registered address for China Jo-Jo Drugstores, Inc,
13 is 1st Floor, Yuzheng Plaza, No. 76, Yuhuangshan Road Hangzhou, Zhejiang, China, 310002.

14 19. Corporate Defendant TS Emporium is a corporation with five retail stores in the
15 greater Los Angeles area that sell ejiao products to California consumers. The registered address for
16 TS Emporium is 17520 Castleton Street City of Industry, California 91748.

17 20. Corporate Defendant Hygia Healthcare is a California corporation that distributes
18 ejiao products to for resale to consumers in California. The registered address for Hygia Healthcare
19 is 2770 E. Regal Park Drive, Anaheim, California 92806.

20 21. Corporate Defendant Golden Needle Acupuncture, Herbal & Medical Supply, Inc.
21 (“Golden Needle”) sells ejiao products on its website to consumers in California. The registered
22 address for Golden Needles is 2 Rutledge Circle, Fletcher, North Carolina 28732.

1 22. Corporate Defendant RainNest, LLC sells ejiao products on its website to consumers
2 in California. The registered address for RainNest is 4833 Berewick Town Center Dr Unit E-
3 180, Charlotte, North Carolina 28278.

4 23. Corporate Defendant TCMzone, LLC distributes ejiao products in California. The
5 registered address for TCMzone, LLC is 2460 E Germann Rd Suite 10, Chandler, Arizona 85286.
6

7 24. Corporate Defendant Wing Hop Fung Ginseng, Inc., is a corporation with three retail
8 stores in Southern California that sell ejiao products. The registered address for Wing Hop Fung
9 Ginseng, Inc. is 10052 Garvey Ave, El Monte, California 91733.

10 25. Corporate Defendant OCM Medicine, Inc, distributes ejiao products in California.
11 The registered address for OCM Medicine, Inc, is 16555 Gale Ave City of Industry, California
12 91745.

13 26. Corporate Defendant Yami is an online seller of ejiao products to consumers in
14 California. The registered address for Yami is 140 S State College Blvd, Brea, California 92821.
15

16 27. Corporate Defendant Herb Depot is an online seller of ejiao products to consumers
17 in California. The registered address for Herb Depot Is 407-409 Dundas St. West, Toronto, Ontario
18 MFT 1G6.

19 28. Corporate Defendant Amazon.com, Inc. (“Amazon”) is a corporation incorporated
20 and existing under the laws of the State of Delaware with its headquarters and principal place of
21 business at 440 Terry Ave N, Seattle, Washington 98109. Amazon sells ejiao products online to
22 California consumers.
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24 29. Corporate Defendant Po Wing Hong Kong Food Market sells ejiao products online
25 to consumers in California. The registered address for Po Wing Hong Food Market is 49 Elizabeth
26 Street, Ground Floor, New York, New York 10013.
27
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1 California Business and Professions Code Sections 17203 and 17204 allow private parties to ask a
2 court to enjoin unlawful business practices.

3 ***California’s Ban on Sale of Horsemeat***

4 33. In 1998, the people of California passed via initiative the Prohibition of Horse
5 Slaughter and Sale of Horsemeat for Human Consumption Act. CRIMES—FELONY—
6 SLAUGHTER OF HORSES, 1998 Cal. Legis. Serv. Prop. 6 (Proposition 6).

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8 34. The purpose and intent of Proposition 6 included “prohibit[ing] the sale of
9 horsemeat for food for human consumption in the State of California” and “recogniz[ing] horses as
10 an important part of California's heritage that deserve protection from those who would slaughter
11 them for food for human consumption.” (*Id.*)

12 35. Proposition 6 declared that “horses” are not “food animals” and specifically
13 established that “horsemeat may not be offered for sale for human consumption,” where the term
14 “horsemeat” includes “any part” of the horse and the term “horse” includes any “burro.” (Pen. Code
15 § 598d; *id* § 598c(a), (b).) Burro is the Spanish word for donkey. Accordingly, the California
16 Department of Food and Agriculture’s Meat and Poultry Inspection Branch does not conduct
17 inspections of equine meat products, because they cannot be sold to the public.

18
19 36. Proposition 6 also found that “[h]orses can be stolen, or purchased without
20 disclosure or under false pretenses, to be slaughtered or shipped for slaughter. These practices have
21 contributed to crime and consumer fraud.” (*Id.*)

22 ***Consolidated Appropriations Act of 2022***

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24 37. The USDA Food Safety and Inspection Service (FSIS) is prohibited under the
25 Consolidated Appropriations Act of 2022 from spending funds to perform postmortem inspections
26 of horses and other equines intended for human consumption, both those slaughtered within the US
27

1 and imported as meat products. (*See Consolidated Appropriations Act of 2022, Pub. L. No. 117-*
2 *103, § 762, 136 Stat. 49, 1075–1100 (2022).*)

3 ***Dietary Supplement Health and Education Act of 1994***

4 38. Under the federal Dietary Supplement Health and Education Act (DSHE),
5 manufacturers, sellers, and distributors of dietary supplements are prohibited from marketing
6 products that are misbranded. (21 U.S.C. § 343)

7 39. As such, ejiao manufacturers, sellers, and distributors are required to evaluate the
8 safety and labeling of their products before marketing to ensure that they meet all the requirements
9 of the Federal Food, Drug, and Cosmetic Act as amended by DSHEA and FDA regulations.

10 40. Accordingly, ejiao manufacturers, sellers, and distributors that make claims related
11 to the health benefits of their products must “[have] substantiation that such statement is truthful
12 and not misleading,” and the statement must include the following prominently displayed in
13 boldface type: “This statement has not been evaluated by the Food and Drug Administration. This
14 product is not intended to diagnose, treat, cure, or prevent any disease.” (21 U.S.C. § 343(r)(6).)

15 ***Acupuncture Licensure Act***

16 41. In order to obtain a license to practice acupuncture in the State of California,
17 applicants must pass a written examination that “tests the applicant's ability, competency, and
18 knowledge in the practice of an acupuncturist,” as “developed by the Office of Professional
19 Examination Services of the Department of Consumer Affairs.” (Bus. & Prof. Code § 4938(a)(3);
20 *see also* Cal. Code Regs., tit. 16, § 1399.443(a) (“The examination shall test the applicant's
21 knowledge and competency in the practice of Asian medicine through acupuncture.”) Thus, the
22 examination materials are drafted with the expectation and intent that the practices will be
23 performed within the State of California, including the prescription of listed “herbal formulas” such
24 as ejiao.
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1 50. Ejiao production threatens the global donkey population with extinction.

2 51. In 2015, Qin Yufeng, the president of China’s largest ejiao producer, Defendant
3 Dong E-E-Jiao, stated, "The ejiao industry is facing a major challenge due to the shortening supply
4 of donkey hide."

5 52. In 2017, a spokesperson for Goldox, a major ejiao industry supplier in Kenya, stated
6 "a worldwide donkey shortage is looming...and it could take only three years for the species to
7 become extinct."

8 53. Ejiao producers and sellers make misleading claims that consuming the products
9 have numerous health benefits.

10 54. In 2018, China’s National Health and Family Planning Commission stated
11
12 Ejiao has long been one of the most-hyped health supplements, as it is
13 branded to have many benefits such as replenishing blood, stopping
14 bleeding, nourishing skin, avoiding miscarriage, resisting fatigue, and
15 preventing cancer. However, if we see through the hype built around it
16 and examine its essence, ejiao is just boiled donkey skin.¹

17 55. According to Ruan Guangfeng, a nutritionist at the China Food Information Center,
18 the health benefits of ejiao have been exaggerated.²

19 56. Corporate Defendant Nourishme Organics manufactures and sells “Ejiao (Donkey
20 Collagen),” claiming on its website that the product “may support cardiovascular health.”

23 ¹ Horsetalk.co.nz, *It’s “just boiled donkey skin”, says Chinese health officials of traditional remedy*
24 (Feb. 22, 2018) available at [https://www.horsetalk.co.nz/2018/02/22/chinese-health-
25 officials-traditional-remedy-ejiao/](https://www.horsetalk.co.nz/2018/02/22/chinese-health-officials-traditional-remedy-ejiao/). While China’s National Health and Family Planning
26 Commission later deleted this statement, the Commission did not specifically retract the
27 substance of the statement.

28 ² Humane Society International, *An INVESTIGATIVE REPORT – The production, raw material
29 resources and consumption of donkey-hide gelatin (Ejiao)*, (May 8, 2018), available at
30 [https://conservationaction.co.za/resources/reports/an-investigative-report-the-production-
31 raw-material-resources-and-consumption-of-donkey-hide-gelatin-ejiao/](https://conservationaction.co.za/resources/reports/an-investigative-report-the-production-raw-material-resources-and-consumption-of-donkey-hide-gelatin-ejiao/).

1 57. Corporate Defendant Nourishme Organics fails to provide the requisite disclaimer
2 that the FDA has not evaluated the statement and that the product “is not intended to diagnose,
3 treat, cure, or prevent any disease.”
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5 58. Additionally, Corporate Defendant Nourishme Organics claims this ejiao product is
6 derived from “up-cycled Australian Donkey meat that would have been wasted.”

7 59. On information and belief, Corporate Defendant Nourishme Organics’ ejiao
8 products are derived from donkeys who would not otherwise have been killed.

9 60. Corporate Defendant Dong-E-E-Jiao manufactures “Donkey Hide Gelatin Liquid,”
10 as distributed by e Corporate Defendant Hygia Healthcare, and sold by Corporate Defendant TS
11 Emporium. According to Corporate Defendant TS Emporium’s website, “Donkey Hide Gelatin
12 Liquid” may be used to treat various ailments, including “palpitations” and “insomnia.”
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14 61. Corporate Defendant TS Emporium fails to provide the requisite disclaimer that the
15 product “is not intended to diagnose, treat, cure, or prevent any disease.”

16 62. Corporate Defendant Yami also sells “Donkey Hide Gelatin Liquid.”

17 63. Corporate Defendant RainNest, LLC, sells ejiao products online to consumers in
18 California, including “e jaio gao.” RainNest claims that its products are “certified by FDA, USDA,
19 and USFWS.”
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21 64. On information and belief, Corporate Defendant RainNest’s ejiao products are not
22 actually certified by the United States Food and Drug Administration, the United States Department
23 of Agriculture, nor the United States Fish and Wildlife Service.

24 65. Corporate Defendant China Jo-Jo Drugstores, Inc., sells ejiao products online to
25 consumers in California via its website dada360.com, including “Ejiao Compound Syrup,” claiming
26 the product treats “blood deficiency, dizziness, and palpitations.”
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1 66. Corporate Defendant China Jo-Jo Drugstores fails to provide the requisite disclaimer
2 that the product “is not intended to diagnose, treat, cure, or prevent any disease.”

3 67. Corporate Defendant Golden Needle sells on its website “E Jiao Granules,” as
4 distributed by Corporate Defendant TCMzone.

5 68. Corporate Defendant Po Wing Hong Kong Food Market sells ejiao products on its
6 website, including “Royal King Fu Fang E-Jiao Extract.”

7 69. Corporate Defendant Amazon.com sells “Artemisia Anti-Hemorrhage Formula
8 Dietary Supplement,” as distributed by Corporate Defendant Herbal Science International, Inc.
9 According to Corporate Defendant Amazon.com’s webpage, the Artemisia Anti-Hemorrhage
10 Formula Dietary Supplement contains “Gelatina nigra (E Jiao).” The Amazon webpage claims that
11 the Artemisia Anti-Hemorrhage Formula Dietary Supplements are “Made in USA,” and
12 “Manufactured under FDA Registered Facility.”
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14 70. On information and belief, the Artemisia Anti-Hemorrhage Formula Dietary
15 Supplement is not “Made in USA,” nor “manufactured under FDA Registered Facility,” but rather,
16 merely *assembled* in the United States in an FDA registered facility.
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18 71. According to the Federal Trade Commission, “Made in USA” means that “all or
19 virtually all” the product has been made in America, such that all significant parts, processing and
20 labor that go into the product must be of U.S. origin.
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22 72. Finally, the Amazon webpage claims that the Artemisia Anti-Hemorrhage Formula
23 Dietary Supplements’ contents are “100% Herbal.”

24 73. Merriam-Webster’s Online Dictionary defines “herbal” as made of “a plant or plant
25 part valued for its medicinal, savory, or aromatic qualities.”

26 74. Donkey skin does not come from an herb or plant.
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1 75. Corporate Defendant Bio Essence sells “Bio Essence Health Science Ejiao Donkey
2 Hide Gelatin.”³

3 76. Corporate Defendant Wing Hop Fung sells “FU BRAND E JIAO/ COLLA CORII
4 ASINI,” whose “chief functions” include “nourishing Yin, and moistening dryness.” FU Brand E
5 Jiao is manufactured by Corporate Defendant Shandong Fupai and distributed by Corporate
6 Defendant OCM Medicine, Inc.

7 77. Corporate Defendant Wing Hop Fun fails to provide the requisite disclaimer that the
8 product “is not intended to diagnose, treat, cure, or prevent any disease.”

9 78. Corporate Defendant Yami also sells FU Brand E Jiao.

10 79. Corporate Defendant Herb Depot sells ejiao online to California consumers,
11 including “Colla Corii Asini” and “Danggui Ejiao Buxue Tablets.”

12 80. Government Defendant Harabedian, as the President of the California Acupuncture
13 Board, supervised development of the Preparation Guide for the California Acupuncture Licensing
14 Examination.

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18 ³ Notably, Corporate Defendants Amazon.com, Inc., Bio Health Science, and Herbal Science
19 International, Inc. also threaten public health through ejiao sales that violate the Safe
20 Drinking Water and Toxic Enforcement Act (“Proposition 65”), which requires that
21 businesses warn Proposition 65 consumers when their products contain substances on the
22 Proposition 65 List known to the state to cause cancer or reproductive toxicity in amounts
23 above the established safe harbor levels.. According to testing performed by Euronfins Food
24 Chemistry Testing Madison, Inc., (“Eurofins”) at Plaintiff’s request, Defendant Bio
25 Essence’s “Bio Essence Health Science Ejiao Donkey Hide Gelatin” product contains lead
26 in the amount of 639 parts per billion. According to Bio Essence’s website, the daily
27 recommended dosage of the product is 1-2 grams twice per day. Accordingly, consumers
28 following those instructions could consume 2.556 micrograms per day of lead, or more than
five times the MADL under Proposition 65.

Similarly, tests performed by Eurofins found that the “Artemisia Anti-Hemorrhage Formula Dietary
Supplement,” sold by Defendant Amazon.com and distributed by Herbal Science
International contains lead in the amount of 435 parts per billion. Amazon.com’s website,
the daily recommended dosage of the product is up to 6 grams per day. Accordingly,
consumers following those instructions could consume 2.61 micrograms per day of lead, or
more than five times the MADL under Proposition 65.

1 86. The inhumane treatment of donkeys inherent in ejiao production frustrate the Fund's
2 organizational mission of advancing the wellbeing of horses and other equines.

3 87. Accordingly, the Fund has taken numerous actions to prevent unlawful ejiao sales
4 and distribution.

5 88. Upon learning about the cruelty of ejiao production, the Fund began spending
6 organizational resources on combatting unlawful ejiao sales by committing time and resources to
7 investigate unlawful sales of ejiao products in California, educating the public about the cruelty
8 inherent in ejiao production and the resulting decimation of the donkey population, and working to
9 convince public officials to enforce the statutory ban on equine meat sales, all of which constitute
10 lost money and property under section 17204 of the Business & Professions Code. Between
11 October of 2021 and January of 2023, the Fund spent approximately 2,160 hours combatting
12 unlawful ejiao sales. These expenditures of organizational resources include, but are not limited to,
13 the following examples:
14

- 15 a. researching California law concerning sales of donkey skin;
- 16 b. researching companies that sell ejiao products in California;
- 17 c. corresponding with California Department of Food and Agriculture about equine
18 meat inspection requirements;
- 19 d. recruiting other public interest organizations to join forces in opposition of unlawful
20 ejiao sales through formal letters of support, weekly phone calls, teleconferences and
21 online meetings with the respective senior management, government relations staff,
22 legal counsel, and their lobbyists.;
- 23 e. corresponding with the California Attorney General's Office about unlawful ejiao
24 sales and confirming that local law enforcement is tasked with enforcing the relevant
25 penal code provisions;
- 26
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- f. contacting the Los Angeles County Sheriff’s Office to report unlawful ejiao sales in the County and, at the Sheriff’s urging, submitting a formal online complaint regarding unlawful sales of ejiao within the County;
- g. contacting the San Mateo County Sheriff’s Office to report unlawful ejiao sales in the County and was erroneously advised that the County could not act, as the United States Department of Agriculture had jurisdiction over such violations; and
- h. contacting the San Francisco County Sheriff’s Office and the City of San Francisco Sheriff’s office to report unlawful ejiao sales in the County and was erroneously advised to contact the Federal Bureau of Investigations.

89. These expenditures of organizational resources were unrelated to this litigation and were not undertaken in contemplation of or to facilitate this litigation, but were instead undertaken as part of the Fund’s efforts to educate the public and persuade law enforcement to take action against unlawful ejiao sales.

90. The Fund would prefer to shift its resources to other projects that would help other equines and advance its mission, including research and education related to the use of equines in the development of antibody-based pharmaceutical products as well as lameness and motion studies. However, the Fund it is prevented from doing so by Corporate Defendants’ ongoing violations of law. Were the Fund to cease efforts to prevent unlawful ejiao sales in California, the state in which the Fund is headquartered, the Fund would suffer harm to its reputation, credibility, and finances, and watch as no law enforcement agency – or other organization – took steps to stop the unlawful conduct of Defendants. As an incorporated non-profit, the Fund is required by its charter to protect equine welfare. In this sense, the Fund is compelled to divert organizational resources to counteract Defendants’ unlawful business practices.

VI.

1 **FIRST CAUSE OF ACTION**

2 **Violations of Business & Professions Code Section 17200 *et seq.*, Unlawful Business Practice**
3 **(Plaintiff Against Corporate Defendants)**

4 91. Plaintiff realleges and incorporates by reference the allegations in each of the
5 preceding paragraphs of this Complaint.

6 92. Corporate Defendants have engaged in acts or practices that constitute unfair
7 competition, as that term is defined in section 17200 *et seq.* of the California Business &
8 Professions Code.

9 93. All Corporate Defendants have violated Business & Professions Code §§ 17200 *et*
10 *seq.* through their unlawful, fraudulent, or unfair business acts and practices, which violate
11 provisions of the California Penal Code.

12 94. Specifically, all Corporate Defendants sold or distributed ejiao products in California
13 in violation of California Penal Code § 598d.

14 95. Additionally, the following Corporate Defendants' false advertising constitutes a
15 fraudulent business practice that should be enjoined by the Court:

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- 18 a. Corporate Defendants Amazon.com and Herbal Science International, Inc
19 misrepresented the characteristics of their ejiao products in violation of
20 California Business and Professions Code §§ 17200 *et seq.* by claiming the ejiao
21 products are "100% Herbal," despite the fact that those products contain animal-
22 derived ingredients.
- 23
- 24 b. Corporate Defendant Nourishme Organics misrepresented the characteristics of
25 their ejiao products by claiming the ejiao products are "up-cycled Australian
26 Donkey meat that would have been wasted," when in fact, the donkeys would
27 not have been killed but-for ejiao production.

- 1 c. Corporate Defendants Amazon.com and Herbal Science International, Inc.,
2 misrepresented the source of donkey meat used in its ejiao products. Specifically,
3 Amazon.com and Herbal Science International claim that their ejiao products are
4 “Made in USA,” and “manufactured under FDA Registered Facility,” when in
5 reality, the products are merely *assembled* in the United States in an FDA
6 registered facility.
7
8 d. Corporate Defendant RainNest misrepresented the certification of its ejiao
9 products, falsely claiming that the products are certified by the FDA, USDA, and
10 USFWS.

11 **SECOND CAUSE OF ACTION**

12 **Writ of Mandate (Traditional and/or Statutory)**
13 **(Plaintiff Against Government Defendants)**

14 96. Plaintiff realleges and incorporates by reference all of the foregoing allegations as if
15 fully set forth herein.

16 97. Defendants Kirchmeyer, Director of California Department of Consumer Affairs,
17 and Harabedian, President of California Acupuncture Board, are public agents with a clear and
18 present ministerial duty to develop and administer examinations for acupuncture licenses that test
19 applicants’ ability, competency, and knowledge in the practice of an acupuncturist.
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21 98. By requiring applicants for an acupuncture license to learn the benefits of prohibited
22 ejiao products, Defendants have violated that mandatory duty, since the inclusion of ejiao in the
23 examination materials explicitly and implicitly condones its use and provision by practitioners in
24 the State of California.
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26 99. In the alternative, Defendants abused their discretion in performing their mandatory
27 duty in a palpably unreasonable, arbitrary, and capricious manner.
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VERIFICATION

I, A. FRANK ROTHSCHILD, am the director and president for petitioner/plaintiff A. F. ROTHSCHILD FUND, d.b.a. Center for Contemporary Equine Studies, a 501(c)(3) non-profit corporation, the petitioner/plaintiff herein, and I am authorized to make this verification on its behalf. I hereby certify that I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE; AND COMPLAINT FOR DAMAGES, INJUNCTIVE RELIEF, AND DECLARATORY RELIEF and the contents thereof are true and accurate to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 9, 2023



A. FRANK ROTHSCHILD