

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF OTSEGO

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PEOPLE OF THE STATE OF NEW YORK, by
LETITIA JAMES, Attorney General of the State of New
York,

VERIFIED PETITION

Petitioner,

Index No.

-against-

POP-IN SMOKE & VAPE, LLC; PUFFTOPIA, LLC
d/b/a PUFFTOPIA; ROYALTY TOBACCO LLC;
together with EYSA SHARHAN, Individually and as
Principal of POP-IN SMOKE & VAPE, LLC,
PUFFTOPIA, LLC, and ROYALTY TOBACCO LLC;
and AHMED MOZEB, Individually and as Principal of
POP-IN SMOKE & VAPE, LLC, PUFFTOPIA, LLC,
and ROYALTY TOBACCO LLC,

Respondents.

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Petitioner, the People of the State of New York, by their attorney, Letitia James,
Attorney General of the State of New York, alleges upon information and belief:

Preliminary Statement

1. Petitioner brings this special proceeding pursuant to New York Executive Law § 63(12) and New York Public Health Law (“PHL”) § 12 to preliminarily and permanently enjoin Respondents from continuing to sell and offer for sale illegal flavored vapor products, including to underage individuals, and doing so without a valid certificate of registration to sell vapor products. Respondents include Pop-In Smoke & Vape, LLC (“Pop-In Smoke”), Pufftopia, LLC, doing business as Pufftopia (“Pufftopia”), and Royalty Tobacco LLC (“Royalty Tobacco” or the “New Store”), together with Eysa Sharhan (“Sharhan”), individually and as principal of Pop-In Smoke, Pufftopia, and Royalty Tobacco, and Ahmed Mozeb (“Mozeb”), individually and

as principal of Pop-In Smoke, Pufftopia, and Royalty Tobacco (collectively “Respondents”).

Petitioner also seeks a judgment for penalties, and costs as authorized by law.

2. Respondent Pop-In Smoke violated New York’s Public Health Law multiple times, through its sales of illegal flavored vapor products, including to individuals under the age of 21. Following New York State Department of Health (“DOH”) Administrative Law Judge (“ALJ”) determinations that Pop-In Smoke repeatedly violated New York’s Public Health Law, the Department of Taxation and Finance (“DTF”) suspended Pop-In Smoke’s license to sell vapor products for a period of two-years, effective September 27, 2022.

3. Despite the suspensions, Respondents continued to sell and offer for sale vapor products, including flavored vapor products. As a result, following a DOH administrative hearing on November 17, 2022, the ALJ ordered DTF to permanently revoke Pop-In Smoke’s license to sell, effective January 27, 2023. In open violation of its license revocation, Respondent Pop-In Smoke continued to sell and offer for sale vapor products, including flavored vapor products, which pose a serious and imminent threat to the health and safety of persons, especially youth.

4. With the revocation of Pop-In Smoke’s license, upon information and belief, Respondent Sharhan changed the business’s name to Pufftopia, filed for incorporation on April 20, 2023, and obtained a license for Pufftopia to sell vapor products. Respondent Pufftopia continued to sell flavored vapor products to individuals, including those underage, from the same location as Pop-In Smoke. After finding out about the entity change through the Office of Cannabis Management’s (“OCM”) closure order of the location, DOH reissued its notices of violation to Respondent Pufftopia with no response. Upon information and belief, during the

relevant time period, Respondents Pop-In Smoke and Pufftopia (collectively, the “Store”) used the names of their businesses interchangeably.

5. On November 19, 2024, during a joint operation between the OCM and DTF, OCM sealed Pufftopia after finding illegal cannabis products on the premises, despite the Store not having a license to sell cannabis products under N.Y. Cannabis L. § 125. On that date, DOH also observed illegal flavored vapor products on the premises.

6. After OCM’s sealing of Pufftopia, to continue to evade enforcement, Respondent Sharhan opened Respondent Royalty Tobacco just over a mile away and continued to operate the identical illegal business there. Royalty Tobacco sold flavored vapor products to individuals, including to those under the age of 21 for the benefit of the very same principals who operated and controlled Pufftopia and Pop-In Smoke.

7. Respondents continue to operate and sell vapor products, including flavored vapor products, to this day, endangering the health and safety of New Yorkers, especially its youth, and the OAG brings this action to halt their flagrant violations of and attempts to circumvent the law.

Jurisdiction and Parties

8. Petitioner is the People of the State of New York by their Attorney, Letitia James, Attorney General of the State of New York (“OAG”).

9. Petitioner brings this special proceeding pursuant to Executive Law § 63(12) and Public Health Law § 12(5) to obtain injunctive and equitable relief, penalties, and costs.

10. Petitioner is authorized to take action to enjoin repeated and persistent fraudulent or illegal conduct under New York Executive Law § 63(12).

11. Petitioner is, upon the request of the Commissioner of DOH, empowered pursuant to PHL § 12(5), to bring an action for an injunction against any person who violates, disobeys, or disregards any term or provision of Chapter 45 of the Consolidated Laws of New York or of any lawful notice, order, or regulation pursuant thereto. PHL § 12 also authorizes DOH to bring an action in this Court to recover any civil penalty owed as a result of a violation of the PHL.

12. Respondent Pop-In Smoke is a domestic limited liability company since April 29, 2022, with a principal business address at 575 Main Street, Oneonta, New York 13820 in Otsego County. It operated a smoke shop located at 5381 State Highway 7, Oneonta, New York 13820.¹ Respondent Pop-In Smoke was registered with the Department of State, Division of Corporations, under DOS ID 6470462.

13. Respondent Pufftopia is a domestic limited liability company since April 20, 2023. It is incorporated in Otsego County, and maintains its principal business address at 5381 State Highway 7, Oneonta, New York 13820, in Otsego County. It operated a smoke shop located at 5381 State Highway 7, Oneonta, New York 13820. Respondent Pufftopia was registered with the Department of State, Division of Corporations, under DOS ID 6803484.

14. Respondent Royalty Tobacco is a domestic limited liability company since September 5, 2024. It is incorporated in Otsego County, and maintains its principal business address at 5626 State Highway 7, Suite 2, Oneonta, New York 13820, in Otsego County. Respondent Royalty Tobacco is registered with the Department of State, Division of Corporations, under DOS ID 7412523. It currently operates a smoke shop at that address that specializes in the sale of vapor products.

¹ The principal business address is the same location as the retail shop.

15. Upon information and belief, during the relevant time period, Respondents Pop-In Smoke and Pufftopia used the names of their businesses interchangeably and operated out of the same address.

16. Upon information and belief, Respondent Eysa Sharhan is an owner and principal operator of Respondents Pop-In Smoke, Pufftopia, and Royalty Tobacco. Respondent Sharhan is doing business in Otsego County, New York.

17. Upon information and belief, Respondent Ahmed Mozeb is an owner and principal operator of Respondents Pop-In Smoke, Pufftopia, and Royalty Tobacco. Respondent Mozeb is doing business in Otsego County, New York.

Background

18. Vapor products pose serious consequences to public health. According to DOH and data from the U.S. Centers for Disease Control and Prevention (“CDC”), youth and young adults are the primary users of e-cigarettes, and e-cigarettes are the most commonly used tobacco product by high school students in New York State.²

19. Data from the 2022 New York Youth Tobacco Survey showed that 18.7% of high school youth use e-cigarettes.³

20. Flavorings in tobacco products make them even more appealing to youth.⁴ In 2024, 87.6% of youth who used e-cigarettes used flavored e-cigarettes, with fruit flavors being the most popular followed by candy, desserts, or other sweets.⁵ According to the CDC, youth use of tobacco products in any form is unsafe.⁶ Vape-makers are innovating the industry to add

² See https://www.health.ny.gov/prevention/tobacco_control/campaign/e-cigarettes/.

³ See https://www.health.ny.gov/prevention/tobacco_control/reports/statshots/volume15/n1_youth_tobacco_use.pdf.

⁴ See <https://www.cdc.gov/tobacco/php/data-statistics/youth-data-tobacco/index.html>.

⁵ See <https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey>.

⁶ See *supra* note 4.

features that make the products even harder for youth to put down, such as games, controls to adjust flavor settings, and Bluetooth connectivity.

21. New York State has enacted laws to protect youth from the dangers of nicotine addiction by reducing access to tobacco and vaping products. New York's Public Health Law provides a regulatory framework for the sale of cigarettes, tobacco products, and vapor products in New York State. Enforcement of the PHL is crucial to protecting the public health and safety of all New Yorkers, especially its youth.

Statutory Framework

Prohibitions on the Sale and Offer to Sell Vapor Products

22. PHL § 1399-cc(2) prohibits any person operating a place of business wherein tobacco products, liquid nicotine (also referred to as e-liquid), or e-cigarettes are sold or offered for sale from selling such products to individuals under the age of twenty-one (21) years of age. *See* PHL § 1399-cc(1)(e). An e-cigarette is defined as an electronic device that delivers vapor which is inhaled by an individual user, and shall include any refill, cartridge and any other component of such device. PHL § 1399-aa(13).

23. The sale of tobacco products, liquid nicotine, or e-cigarettes shall be made only to an individual who demonstrates, through a government issued identification, that the individual is at least twenty-one years of age. PHL § 1399-cc(3).

24. Any person operating a business wherein tobacco products, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes are sold or offered for sale is required to post in a conspicuous place a sign with the following statement: "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, SHISHA OR OTHER TOBACCO PRODUCTS, HERBAL CIGARETTES, LIQUID NICOTINE, ELECTRONIC

CIGARETTES, ROLLING PAPERS OR SMOKING PARAPHERNALIA, TO PERSONS UNDER TWENTY-ONE YEARS OF AGE IS PROHIBITED BY LAW.” PHL § 1399-cc(2).

25. Except in limited circumstances not herein applicable, any person operating a business wherein tobacco products, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes, are sold or offered for sale is prohibited from selling, permitting to be sold, offering for sale, or displaying for sale such products in any manner unless such products are stored for sale “(a) behind a counter in an area accessible only to the personnel of such business, or (b) in a locked container.” PHL § 1399-cc(7).

26. PHL § 1399-mm-1(2) prohibits the sale at retail of any flavored vapor product intended or reasonably expected to be used with or for the consumption of nicotine. A vapor product is defined as any noncombustible liquid or gel, regardless of the presence of nicotine therein, that is manufactured into a finished product for use in an electronic cigarette, including any device that contains such noncombustible liquid or gel. PHL § 1399-aa(17). Under this statute, a flavored vapor product (“Flavored Vapor Product”) means “any vapor product intended or reasonably expected to be used with or for the consumption of nicotine, with a distinguishable taste or aroma, other than the taste or aroma of tobacco.” PHL § 1399-mm-1(1). The prohibition does not extend to any vapor products that the U.S. Food and Drug Administration (“FDA”) has authorized to legally market and that have received a premarket review approval order. PHL § 1399-mm-1(4) (citing 21 U.S.C. § 387j). To date, the FDA has authorized only 39 tobacco and menthol flavored e-cigarette products and devices to be marketed and sold in the U.S.⁷

⁷ <https://www.fda.gov/tobacco-products/products-ingredients-components/e-cigarettes-vapes-and-other-electronic-nicotine-delivery-systems-ends>; see also https://digitalmedia.hhs.gov/tobacco/print_materials/CTP-250?locale=en.

Registration Requirements for the Retail Sale of Tobacco Products

27. Every retail dealer must display a certificate of registration in each place of business at which it sells cigarettes or tobacco products at retail. N.Y. Tax Law § 480-A(1)(a). A certificate of registration is valid for the calendar year upon the payment of a fee and must be renewed each year upon the payment of a fee. *Id.* at § 480-A(1)(c). A certificate of registration is neither assignable nor transferable, and must be surrendered to the department upon the retail dealer's ceasing to do business or in the event that such business never commenced. *Id.*

Licensing and Registration Requirements for the Retail Sale of Vapor Products

28. Every person who intends to sell vapor products must receive a certificate of registration (i.e., license) from the Commissioner of DTF prior to engaging in business. N.Y. Tax Law § 1183. A certificate of registration is valid for the calendar year for which it is issued unless suspended or revoked. N.Y. Tax Law § 1183(b). The certificate of registration shall be null and void upon the expiration of its term. *Id.* A certificate of registration is neither assignable nor transferable, and must be destroyed immediately upon the vapor products dealer ceasing to do business. *Id.*

29. Every vapor products dealer is required to publicly display their vapor products certificate of registration in each place of business where vapor products are sold at retail. N.Y. Tax Law § 1183(c).

30. A "retail dealer" is defined as a person licensed by the Commissioner of DTF to sell cigarettes, tobacco products, or vapor products. PHL § 1399-aa(16). A "person" means a person, firm, company, corporation, partnership, sole proprietor, limited partnership or association. PHL § 1399-aa(3).

31. A “vapor products dealer” is defined as a person, firm, company, corporation, partnership, sole proprietor, limited partnership or association licensed by DTF to sell vapor products in New York State. PHL §§ 1399-aa(3), (18).

32. The Commissioner of DTF shall refuse to issue a vapor products certificate of registration to any applicant who does not possess a valid certificate of authority under Section 1134 of the Tax Law. N.Y. Tax Law § 1183.⁸ The certificate of authority gives the vapor products dealer the right to collect tax on vapor product sales.⁹ The certificate of authority is issued for a term of no less than three years. N.Y. Tax Law § 1134(a)(2). It must be promptly displayed at the place of business. N.Y. Tax Law § 1134.

33. A certificate of authority may be subject to renewal. *Id.* It is also subject to suspension or revocation. *Id.* A certificate of authority and any duplicate cannot be assigned or transferred, and must be surrendered to the Commissioner immediately upon a registrant’s ceasing to do business at the place named. *Id.*

Enforcement

34. The Commissioner of the New York State Department of Health enforces the Public Health Law. PHL § 206(1)(f).

35. DOH, local county health departments, and the New York City Department of Consumer and Worker Protection (“DCWP”) conduct inspections of businesses that sell tobacco and vapor products to determine if they are in compliance with the PHL.

36. Violations of the PHL will result in the issuance of a finding of violation which contains, *inter alia*, a short and plain statement of facts which are alleged to constitute a

⁸ See also https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/st/how_to_register_for_nys_sales_tax.htm.

⁹ A certificate of authority to collect sales tax’s term or duration is a minimum of three years and is renewable at DTF’s discretion. See https://www.businessexpress.ny.gov/app/answers/cms/a_id/2058.

violation; reference to the provisions of the PHL alleged to have been violated; information to calculate the maximum penalty assessable if the facts are found to be as alleged; notification of the date and place of a hearing; and further notice that failure to appear at the hearing will constitute a default. 10 NYCRR 76.5.

Penalties

37. According to PHL § 1399-ee(2), penalties for a violation of Article 13-F of the PHL §§ 1399, *et seq.*, shall result in:

a civil penalty of a minimum of three hundred dollars, but not to exceed one thousand five hundred dollars for a first violation, and a minimum of one thousand dollars, but not to exceed two thousand five hundred dollars for each subsequent violation, unless a different penalty is otherwise provided in this article.

38. Any vapor products dealer, or agent or employee of a vapor products dealer, who violates the prohibition on the sale of Flavored Vapor Products shall be subject to a civil penalty of not more than one hundred dollars (\$100.00) for each individual package of Flavored Vapor Product sold or offered for sale. PHL § 1399-mm-1(2).

39. The sale of tobacco products, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes to a minor¹⁰ shall result, in addition to the imposition of any other penalty required or permitted pursuant to PHL § 1399-ee, the assigning of two points to the retail dealer's record where the individual who committed the violation did not hold a certificate of completion from a state certified tobacco sales training program, and one point where the retail dealer demonstrates that the person who committed the violation held a certificate of completion from a state certified tobacco sales training program. PHL § 1399-ee(3).

¹⁰ A minor is as an individual under the age of 21. PHL § 1399-cc.

40. Four violations of Article 13-F of the PHL within a three-year time frame shall result in the revocation of the dealer's registration for one year, in addition to the imposition of any other penalty required or permitted by PHL § 1399-ee. PHL § 1399-ee(3)(b).

41. If a retail dealer has accumulated three points or more, the dealer's registration shall be suspended for one year. PHL § 1399-ee(3)(e).

42. A two hundred fifty-dollar surcharge to be assessed for every violation will be made available to enforcement officers and shall be used solely for compliance checks to be conducted to determine compliance with PHL § 1399-ee. PHL § 1399-ee(3)(f).

43. Violations of Article 13-F of the PHL while a retail dealer's registration is suspended shall, in addition to the imposition of any other penalty required or permitted by § 1399-ee, result in permanent revocation of the dealer's registration and the retail dealer will not be permitted to obtain a new registration while suspended. PHL § 1399-ee(4)(a).

Facts

44. During the relevant time period, Respondents Pop-In Smoke and Pufftopia operated a retail shop located at 5381 State Highway 7, Oneonta, New York 13820, that specialized in the retail sale of tobacco products and vapor products, including Flavored Vapor Products, to consumers for consumption.

45. During the relevant time period, Respondent Royalty Tobacco operated, and continues to operate, a retail shop located at 5626 State Highway 7, Suite 2, Oneonta, New York 13820, that specializes in the retail sale of vapor products, including Flavored Vapor Products, to consumers for consumption.

46. From June 3, 2022, to March 29, 2023, DOH conducted seven inspections of Respondent Pop-In Smoke and observed violations of the PHL and Tax Law. Four

administrative hearings before an ALJ were held regarding Pop-In Smoke's violations in which DOH had the burden of proof, and Pop-In Smoke had all the rights essential to a fair and impartial hearing, including the right to be represented by counsel, to present evidence, and to examine and cross-examine witnesses. Pop-In Smoke failed to appear at any of the hearings despite having received notice of the hearings. Written decisions were promptly issued after the conclusion of each of the four ALJ hearings and served upon Pop-In Smoke, including an order directing the revocation of its cigarettes and tobacco products license, as well as its vapor products license. Pop-In Smoke did not appeal any ALJ Decision.

47. By this time, Pop-In Smoke was known by local high school students as a business that would sell illegal flavored vapes to them. At least one Oneonta board member also raised concerns with DOH about Pop-In Smoke's sales of Flavored Vapor Products to young students and relayed how he had heard high school students talking about the Store as a source for the illegal products.

48. Upon information and belief, given the revocation of its licenses, Pop-In Smoke's owners, Respondents Sharhan and Mozeb, filed incorporation papers to change the store's name to Pufftopia and filed for incorporation on April 20, 2023. From April 20, 2023, to November 19, 2024, DOH conducted seven inspections at Pufftopia and observed multiple violations of the PHL and Tax Law. On December 23, 2024, DOH reissued two notices that were previously issued to Respondent Pop-In Smoke after finding out that the Store's name changed to Pufftopia. Respondent Pufftopia did not respond to any of the DOH notices.

49. On November 19, 2024, OCM sealed Pufftopia after finding illegal cannabis products on the premises and issued a closure order. DOH accompanied OCM on that date and observed illegal flavored vapes on the premises. Respondent Sharhan and Mozeb

decided to open up a new shop called Royalty Tobacco and moved their inventory of illegal Flavored Vapor Products there, just a mile away. A sign at the closed Store was posted, saying “Same Owners New Shop” and directing their customers to the new location.

50. From December 11, 2024, to September 5, 2025, DOH conducted five inspections of Royalty Tobacco and observed violations of the PHL and Tax Law. Respondent Royalty Tobacco stipulated to the violations that occurred on January 9, 2025, and March 13, 2025, requiring payment of fines. Respondent Royalty Tobacco is currently on a payment plan to pay its fines.

51. To date, there have been a total of nineteen (19) DOH inspections conducted across Pop-In Smoke, Pufftopia, and Royalty Tobacco involving violations. Of these, DOH conducted seven (7) inspections at Pop-In Smoke, seven (7) inspections at Pufftopia, and five (5) inspections at Royalty Tobacco. Four (4) hearing decisions have been issued against Pop-In Smoke and ten (10) DOH notices have been issued against Pop-In Smoke, two of which have been reissued against Pufftopia. In total, Pop-In Smoke and Pufftopia were assessed and still owe \$172,175.00 in civil penalties, and Royalty Tobacco was assessed \$25,775.00 and owes \$23,625.00 in civil penalties.

June 3, June 10, and June 14, 2022 Violations

52. On June 3, 2022, DOH conducted an adult compliance check of Pop-In Smoke’s retail store, which had valid tobacco and vapor products certificates of registration at the time. DOH inspectors observed 1,993 individual boxes of Flavored Vapor Products available for sale behind the counter on display shelves. The DOH inspectors counted each of the products on the display shelves. A DOH inspector instructed the clerk to remove the Flavored Vapor Products from the retail store and store them elsewhere in response to which the clerk did

nothing and walked away. Another DOH inspector repeated the instructions to the clerk and the clerk then removed the Flavored Vapor Products from the display shelves, put them in boxes, and stored them in the back room.

53. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the June 3, 2022 inspection.

54. Pursuant to Title 10 NYCRR Part 76.5, on June 6, 2022, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violation (“6/6/22 DOH Notice”) against Respondent Pop-In Smoke regarding the following violation found during the June 3, 2022 inspection: (a) the offer for sale of 1,993 units of Flavored Vapor Products in violation of PHL § 1399-mm-1(2) with a maximum fine amount of \$100 per package. A hearing was scheduled for July 7, 2022.

55. The DOH Notice explains the penalties and fines associated with each alleged violation and also states: “For a sale to a minor, two points are assigned (or one point, if the retailer proves the seller is certified as a result of successfully completing a state certified tobacco sales training program). The department shall direct the Commissioner of the Department of Taxation and Finance to suspend your tobacco and/or vapor product registration for one year if you accumulate three or more points.”

56. Further, its failure to respond within 7 days after receipt of a DOH Notice constitutes an admission of the charges and a waiver of the right to a hearing.

57. The ALJ, without further notice, is authorized to find the facts to be as alleged in the finding of violation, issue a decision and order sustaining allegations in the notice, and impose a penalty.

58. A copy of the 6/6/22 DOH Notice was served on Pop-In Smoke by certified mail, return receipt requested, pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a). Respondent Pop-In Smoke did not answer the 6/6/22 DOH Notice.

59. On June 10, 2022, DOH conducted an underage undercover buy at Pop-In Smoke's retail store. "VHS", an individual under the age of 21, acting for DOH as an underage buyer, entered Pop-In Smoke and purchased a package of White Owl Blue Raspberry cigarillo, a tobacco product. VHS purchased a White Owl Blue Raspberry cigarillo from the operator for \$1.00. At no time during the transaction did the clerk performing the sale request proof of age or identification, or ask VHS's age. The sale of the tobacco product was observed and documented by a DOH inspector.

60. After the sale to the underage buyer, the DOH inspector reentered Pop-In Smoke, identified himself, and conducted an adult inspection. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the June 10, 2022 inspection.

61. The DOH inspector informed the employee that an underage compliance check was performed and that the employee had sold the cigarillo to an underage individual. The DOH inspector asked the employee if the Flavored Vapor Products that were found during the June 3, 2022 inspection were still on site. The employee answered that they were not. The DOH inspector asked if he could look around the facility, including a back room. He entered the back room of the store and observed Flavored Vapor Products.

62. The DOH inspector performed an inventory check of five random boxes of Flavored Vapor Products. He contacted the DOH sanitarian who had conducted the June 3, 2022 inspection to confirm the number of products inside those boxes were less than the number

of products counted during the June 3, 2022 inspection. Thus, it is likely that Flavored Vapor Products were sold between June 3, 2022 and June 10, 2022.

63. On June 14, 2022, DOH conducted an undercover buy of a Flavored Vapor Product at Pop-In Smoke. The DOH inspector requested a “mint vape” and the clerk pointed to the boxes on the counter and asked if that was what the DOH inspector was looking for. The DOH inspector requested a “mint vape” again to which the clerk picked up a JUUL Menthol vapor product and said that it was mint. The DOH inspector then asked if the clerk had piña colada or berry Flavored Vapor Products. The clerk responded that he only had menthol and tobacco Flavored Vapor Products. The DOH inspector purchased the JUULpods Menthol Flavored Vapor Product¹¹ for \$25.00. The DOH inspector gave the clerk \$40.00 in cash, and no receipt was provided. Flavored Vapor Products were not kept behind the counter in an area accessible only to employees or in a locked container. Specifically, the JUULpods Menthol Flavored Vapor Product was on top of the counter.

64. On June 15, 2022, DOH issued two separate Notices of Hearing, Offers of Settlement, and Finding of Violations (“6/15/22 DOH Notices”) against Respondent Pop-In Smoke pursuant to Title 10 NYCRR Part 76.5. The first DOH Notice pertained to the following violation observed during the June 10, 2022 inspection: on June 10, 2022, a sale of a White Owl cigar was made to an underage individual without seeking proper photographic identification as proof of age prior to the sale in violation of PHL § 1399-bb(5). The second DOH Notice pertained to the following violation observed during the June 14, 2022 inspection: on June 14,

¹¹ While the FDA authorized the marketing of five JUUL e-cigarette products on July 17, 2025 through the premarket tobacco product application (PMTA) pathway, including Menthol flavor JUUL pods, those products were not approved during the time of this undercover buy. See <https://www.fda.gov/tobacco-products/ctp-newsroom/fda-authorizes-marketing-tobacco-and-menthol-flavored-juul-e-cigarette-products>.

2022, a sale of a non-tobacco Flavored Vapor Product was made in violation of PHL §1399-mm-1(2). A hearing was scheduled for July 7, 2022.

65. Copies of the 6/15/22 DOH Notices were served on Pop-In Smoke by certified mail, return receipt requested, and by personal service, pursuant to PHL § 12-a, and Title 10 Part NYCRR 76.5(a). Respondent Pop-In Smoke did not answer the two 6/15/22 DOH Notices.

66. Specifically, on June 22, 2022, the DOH inspector personally served a copy of the July 7, 2022 hearing documents at the Store. He also left a copy of the 6/6/22 and 6/15/22 DOH Notices with the employee, Gamdn Sala (“Mr. Sala”). The DOH inspector discussed the enforcement process, stipulation offers, and hearing details with Mr. Sala.

67. While serving the DOH Notices, the DOH inspector also observed Mr. Sala smoke a vapor product inside Pop-In Smoke and observed ten JUUL menthol vapor products on the counter available for sale. The DOH inspector provided education regarding the illegality of selling Flavored Vapor Products and how vaping inside violates the New York State Clean Indoor Air Act to Mr. Sala, and the products were removed from the top counter.

68. Mr. Sala informed the DOH inspector upon request that the owner of Pop-In Smoke is “A-sa” and he told Mr. Sala to have “A-sa” call the DOH inspector to discuss the enforcement actions. Upon information and belief, Mr. Sala was referring to Respondent Eysa Sharhan.

July 7, 2022 ALJ Hearing and July 20, 2022 Decision on the 6/6/22 and 6/15/22 DOH Notices

69. On July 7, 2022, an administrative hearing was held before ALJ Rayanne L. Babich (“ALJ Babich”) regarding the 6/6/22 and 6/15/22 DOH Notices in accordance with

PHL § 12-a, Article 3 of the State Administrative Procedure Act (“SAPA”), and 10 NYCRR Part 76. Respondent Pop-In Smoke did not appear at the hearing.

70. On July 20, 2022, ALJ Babich issued a Decision After Hearing (“7/20/22 Decision”) sustaining the 6/6/22 and 6/15/22 DOH Notices, and assessed and imposed the following penalties, surcharges, and points against Respondent Pop-In Smoke: (a) for the June 3, 2022 violation, a civil penalty of \$1,750.00 pursuant to PHL § 1399-mm-1(3), and a \$250.00 surcharge pursuant to PHL § 1399-ee(3)(f); (b) for the June 10, 2022 violation, a civil penalty of \$1,250.00 pursuant to PHL § 1399-ee(2), and a \$250.00 surcharge pursuant to PHL § 1399-ee(3)(f); (c) for the June 14, 2022 violation, a civil penalty of \$100.00 pursuant to PHL § 1399-mm-1(2), and a \$250.00 surcharge pursuant to PHL § 1399-ee(3)(f); and (d) two points to Pop-In Smoke’s record as a retail dealer pursuant to PHL § 1399-ee(3)(a) because no evidence was presented to show that the individual who committed the June 10, 2022 sale of a tobacco product to an individual under the age of 21 violation had obtained a certificate of completion from a state certified tobacco sales program.

71. A copy of the 7/20/22 Decision and notification of the right to appeal the decision was served on Pop-In Smoke by personal service on August 23, 2022, and September 26, 2022.

72. Respondent Pop-In Smoke did not appeal the 7/20/22 Decision.

June 27, 2022 Violation

73. On June 27, 2022, DOH conducted an underage undercover buy at Pop-In Smoke. “MK”, an individual under the age of 21, acting for DOH as an underage buyer, purchased a Hyde Edge Blueberry Flavored Vapor Product with 5% nicotine for \$20.00. The clerk requested proof of identification but completed the sale even though MK stated that she did

not have proof of identification. A DOH inspector observed MK entering Pop-In Smoke and leaving the store with the purchased product.

74. After the sale to the underage buyer, the DOH inspector entered Pop-In Smoke and performed an adult inspection. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the June 27, 2022 inspection.

75. On July 7, 2022, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violation (“7/7/22 DOH Notice”) against Respondent Pop-In Smoke pursuant to Title 10 NYCRR Part 76.5, alleging the following violation of the PHL: (a) on June 27, 2022, a sale of a Flavored Vapor Product was made to an underage individual without requiring proper photographic identification as proof of age prior to the sale in violation of PHL § 1399-cc(3). A hearing was scheduled for August 4, 2022.

76. The 7/7/22 DOH Notice explained the penalties and fines associated with each alleged violation. A copy of the 7/7/22 DOH Notice was served on Pop-In Smoke by certified mail, return receipt requested, and by personal service on July 7, 2022, pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a). Respondent Pop-In Smoke did not answer the 7/7/22 DOH Notice.

August 4, 2022 ALJ Hearing and August 10, 2022 Decision on the 7/7/22 DOH Notice

77. On August 4, 2022, an administrative hearing was held before ALJ Babich regarding the 7/7/22 DOH Notice in accordance with PHL § 12-a, Article 3 of SAPA, and 10 NYCRR Part 76. Respondent Pop-In Smoke did not appear at the hearing.

78. On August 10, 2022, ALJ Babich issued a Decision After Hearing (“8/10/22 Decision”) sustaining the 7/7/22 DOH Notice, and assessed and imposed the following

penalties, surcharges, and points against Respondent Pop-In Smoke: (a) for the June 27, 2022 violation, a civil penalty of \$2,500.00, and a \$250.00 surcharge; and (b) two points to Pop-In Smoke's record as a retail dealer for the second violation of PHL § 1399-cc, to be added to the two points previously assessed in the 7/20/22 Decision.

79. ALJ Babich also ordered DOH to direct the Commissioner of DTF to: (a) suspend Respondent Pop-In Smoke's retail dealer certificates of registration for tobacco products and vapor products, respectively, for a period of one year pursuant to PHL § 1399-ee(3)(e) because of Pop-In Smoke's accumulation of four points; and (b) revoke Pop-In Smoke's retail dealer certificates of registration for a period of one year pursuant to PHL § 1399-ee(3)(b) because of Pop-In Smoke's four violations of Article 13-F of the PHL within a three-month period.

80. A copy of the 8/10/22 Decision and notification of the right to appeal the decision was served on Pop-In Smoke by personal service on August 23, 2022. The DOH inspector reviewed each document with the employee and informed them that these documents needed to be provided to the owner of Pop-In Smoke.

81. Respondent Pop-In Smoke did not appeal the 8/10/22 Decision.

Suspension of Respondent Pop-In Smoke's Cigarettes and Tobacco Products and Vapor Products

Retail Dealer Certificates of Registration

82. On September 21, 2022, DTF issued suspension notices suspending Respondent Pop-In Smoke's cigarettes and tobacco products retail dealer certificate of registration and its vapor products retail dealer certificate of registration for a period of two (2) years, effective September 27, 2022. Pop-In Smoke was directed to return the certificates of

registration to DTF by September 27, 2022. Pop-In Smoke did not return the certificates of registration. *See infra* ¶ 112.

83. On September 23, 2022, DOH issued a Fine Call-in Letter to Respondent Pop-In Smoke regarding the past due civil penalties in the amounts of \$3,850.00 and \$2,750.00, assessed against Pop-In Smoke in the 7/20/22 Decision and 8/10/22 Decision, respectively, and requested immediate full payment of the \$6,600.00 in total due. The letter further informed Pop-In Smoke that failure to remit full payment may result in the assessment of interest or late payment penalty charges; an offset against any tax refunds, contracts or other State payments; and the non-renewal of licenses. To date, Respondents have failed to make payment, and the penalties remain due and owing.

84. The DOH Fine Call-in Letter and September 21, 2022 suspension notices, along with all enforcement action documents and hearing decisions, were personally served on Respondent Pop-In Smoke on September 26, 2022. DOH informed the clerk that DOH has not received any payments, that a total of \$6,600.00 was past due, that all sales of tobacco and vapor products must cease beginning September 27, 2022, and to remove all tobacco products from the retail store.

October 17, 2022 Violation

85. On October 17, 2022, DOH conducted an undercover buy of a Flavored Vapor Product at Pop-In Smoke. The DOH inspector asked the clerk if they had a “Hyde Vape.” The clerk responded, “Yes, what kind?” and the DOH inspector responded, “Blue Razz.” The clerk then asked “\$20 or \$25?” to which the DOH inspector said “\$25.” The clerk then proceeded to walk into an area to the right of the counter of the Store and returned with a Hyde IQ Blue Razz Ice Flavored Vapor Product. The DOH inspector purchased the Flavored Vapor

Product for \$25.00 in cash and received \$5.00 in change. Pop-In Smoke's vapor products certificate of registration was suspended and revoked at the time of the undercover buy.

86. On October 18, 2022, DOH visited Pop-In Smoke and informed the clerk that a sale of a Flavored Vapor Product had been made to the DOH inspector the day before, and that there were complaints regarding selling products to underage individuals. The clerk denied DOH access to the back rooms where Flavored Vapor Products were located. DOH was told to return to the Store with a warrant and police, and that the Store was not selling vapor products containing nicotine or tobacco products.

87. DOH eventually informed the clerk that a Flavored Vapor Product was sold on October 17, 2022. The clerk stated that the employee that day was Esua Naga ("Esua"). The clerk called Esua, and DOH explained to Esua his reason for being at the Store and asked if he could look into the back rooms. DOH was again denied access to the back rooms and was told by Esua that there were no vapor products containing nicotine or tobacco products at Pop-In Smoke. While there, DOH observed multiple customers asking the clerk for Flavored Vapor Products, to which the clerk responded that he could not help them at this time. DOH observed the customers inside the car waiting for him to leave the Store and observed the same customers reentering the Store as he was leaving the premises.

88. On October 20, 2022, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violations ("10/20/22 DOH Notice") against Respondent Pop-In Smoke pursuant to Title 10 NYCRR Part 76.5, finding that the following violations occurred on October 17, 2022: (a) a Flavored Vapor Product was sold to a DOH inspector while Pop-In Smoke's vapor products certificate of registration was suspended in violation of PHL § 1399-

ee(2); and (b) a sale of the Flavored Vapor Product in violation of PHL § 1399-mm-1(2). A hearing was scheduled for November 17, 2022.

89. A copy of the 10/20/22 DOH Notice was served on Pop-In Smoke by personal service on October 21, 2022. Respondent Pop-In Smoke did not answer the 10/20/22 DOH Notice.

90. On October 20, 2022, DOH issued a second Fine Call-in Letter to Respondent Pop-In Smoke regarding the past due civil penalties in the amounts of \$3,850.00 and \$2,750.00, assessed against Pop-In Smoke in the 7/20/22 Decision and 8/10/22 Decision, respectively, and again requested immediate full payment of the \$6,600.00 in total due. The letter further informed Pop-In Smoke that failure to remit full payment may result in the assessment of interest or late payment penalty charges; an offset against any tax refunds, contracts or other State payments; and the non-renewal of licenses. To date, Respondents have failed to make payment, and the penalties remain due and owing.

91. The second DOH Fine Call-in Letter was served on Pop-In Smoke by personal service on October 21, 2022.

November 17, 2022 ALJ Hearing and December 9, 2022 Decision on 10/20/22 DOH Notice

92. On November 17, 2022, an administrative hearing was held before ALJ Babich regarding the 10/20/22 DOH Notice in accordance with PHL § 12-a, Article 3 of SAPA, and 10 NYCRR Part 76. Respondents did not appear at the hearing.

93. On December 9, 2022, ALJ Babich issued a Decision After Hearing (“12/9/22 Decision”) sustaining the 10/20/22 DOH Notice, and assessed the following penalties and surcharges: (a) for the October 17, 2022 violation, a civil penalty of \$2,500.00 pursuant to PHL § 1399-ee(2) and a \$250.00 surcharge pursuant to PHL § 1399-ee(3)(f) for the sale of a

vapor product while the vapor products certificate of registration was suspended; and (b) for the October 17, 2022 violation, a civil penalty of \$100.00 and a \$250.00 surcharge for the sale of a Flavored Vapor Product pursuant to PHL § 1399-mm-1(3). ALJ Babich also ordered DTF to permanently revoke Respondent Pop-In Smoke's retail dealer certificates of registration pursuant to PHL § 1399-ee(4)(a).

94. A copy of the 12/9/22 Decision and notification of the right to appeal the decision was served on Pop-In Smoke by personal service on December 15, 2022. Respondent Pop-In Smoke did not appeal the 12/9/22 Decision.

95. On January 11, 2023, Iman Abraham ("Mr. Abraham"), counsel for Respondent Sharhan, emailed Edward Bartos ("Mr. Bartos"), the then-District Director of the DOH Oneonta District Office, and requested copies of the ALJ Decisions. Mr. Bartos responded that same day and emailed Mr. Abraham copies of the 7/20/22 Decision, 8/10/22 Decision, and the 12/9/22 Decision, as well as copies of the 10/20/22 DOH Fine Call-in Letter and the September 21, 2022 DTF suspension notices. Mr. Bartos also informed Mr. Abraham of ALJ Babich's decision directing DTF to permanently revoke Respondent Pop-In Smoke's cigarettes and tobacco products and vapor products certificates of registration.

96. On January 12, 2023, Mr. Bartos emailed Mr. Abraham a link to a DOH website that maintains a guide for retail tobacco dealers, suggesting that his clients review the guide to educate them. The guide contains a list of requirements that vendors must comply with such as having valid certificates of registration from DTF to sell tobacco and vapor products. The guide refers to the prohibitions on the sale of Flavored Vapor Products and the sale of tobacco and vapor products to any individual under age 21. It also includes information on enforcement

including inspections, as well as potential consequences of noncompliance such as penalties, fines, and suspension or revocation of certificates of registration.

97. On January 17, 2023, Mr. Abraham responded that he was in receipt of the emails and asked if it was possible to reach a resolution with a smaller fine. Mr. Bartos responded no, since ALJ Babich had already issued the orders and set the fine amounts. Mr. Bartos also emailed Mr. Abraham copies of the DTF permanent revocation notices, which Mr. Bartos already had in his possession. *See infra* ¶ 98.

Permanent Revocation of Respondent's Cigarettes and Tobacco Products and Vapor Products Retail Dealer Certificates of Registration

98. DTF issued notices revoking Respondent Pop-In Smoke's cigarettes and tobacco products certificate of registration, as well as its vapor products certificate of registration, effective January 27, 2023, with no reinstatement date. Respondent Pop-In Smoke was directed to return the certificates of registration to DTF by January 27, 2023. Pop-In Smoke did not return the certificates of registration. *See infra* ¶ 112.

March 3, 2023 Violation

99. On March 3, 2023, DOH conducted an adult undercover buy at Pop-in Smoke. The DOH inspector requested a "Hyde Edge Blue Razz" Flavored Vapor Product. The clerk went to the display shelves behind the counter and retrieved a Hyde Edge Blue Razz Ice Flavored Vapor Product. The DOH inspector purchased the Hyde Edge Blue Razz Ice Flavored Vapor Product. Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the undercover buy.

100. On March 13, 2023, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violations ("3/13/23 DOH Notice") against Respondents Pop-In Smoke and Eysa

Sharhan pursuant to Title 10 NYCRR Part 76.5, finding that the following violations occurred on March 3, 2023: (a) a Flavored Vapor Product was sold to a DOH inspector while Respondent Pop-In Smoke's vapor products certificate of registration was permanently revoked in violation of PHL § 1399-ee(2); and (b) a sale of the Flavored Vapor Product in violation of PHL § 1399-mm-1(2). A hearing was scheduled for April 6, 2023.

101. A copy of the 3/13/23 DOH Notice was served on Pop-In Smoke by certified mail, return receipt requested. Respondent Pop-In Smoke did not answer the 3/13/23 DOH Notice.

102. On March 27, 2023, Mr. Abraham responded to Mr. Bartos' email from January 17, 2023 and asked for an update on Pop-In Smoke, to which Mr. Bartos attached all hearing decisions and the 3/13/23 DOH Notice.

103. Mr. Bartos sent Mr. Abraham an email listing the monetary penalties owed by Pop-In Smoke on March 30, 2023 and again on April 5, 2023.

April 6, 2023 ALJ Hearing and April 20, 2023 Decision on 3/13/23 DOH Notice

104. On April 6, 2023, an administrative hearing was held before ALJ Babich regarding the 3/13/23 DOH Notice in accordance with PHL § 12-a, Article 3 of SAPA, and 10 NYCRR Part 76. Respondent Pop-In Smoke did not appear at the hearing.

105. On April 20, 2023, ALJ Babich issued a Decision After Hearing ("4/20/23 Decision") sustaining the 3/13/23 DOH Notice that on March 3, 2023, Respondent Pop-In Smoke sold a Flavored Vapor Product in violation of PHL § 1399-mm-1(2), and assessed the following penalty and surcharge: (a) for the March 3, 2023 violation, a civil penalty of \$100.00 pursuant to PHL § 1399-mm-1(3) and a \$250.00 surcharge pursuant to PHL § 1399-ee(3)(f). ALJ

Babich dismissed the PHL § 1399-ee(2) violation that occurred on March 3, 2023 as that section applies to tobacco products, not vapor products.

106. A copy of the 4/20/23 Decision and notification of the right to appeal the decision was served on Pop-In Smoke by certified mail. Respondent Pop-In Smoke did not appeal the 4/20/23 Decision.

March 29 and April 20, 2023 Violations

107. On March 29, 2023, DOH conducted an underage undercover buy at Pop-In Smoke with the Otsego County Sheriff's Office. "KRV" and "WAB", two individuals under the age of 21, entered Pop-In Smoke with the Otsego County Sheriff's Deputy. KRV, acting for DOH as an underage buyer, and purchased a Hyde Edge Blue Razz Flavored Vapor Product. The Sheriff's Deputy was present during the entire transaction. Respondent Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the sale.

108. On April 20, 2023, DOH conducted an adult compliance check of the Store. DOH was accompanied by the Otsego County Sheriff's Department. DOH observed 1,716 Flavored Vapor Products available for sale in the back room. Respondent Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the April 20, 2023 inspection.

109. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the April 20, 2023 inspection.

110. DOH asked the clerk to provide identification, to which he did. The clerk stated that Eysa Sharhan was the operator and the main point of contact for the Store. The clerk

confirmed that the Store was still operating as Respondent Pop-In Smoke. The Sheriff's Deputy arrested the clerk, and the Store was closed and locked before the officer left.

August 15, August 18, and September 28, 2023 Violations

111. On August 15, 2023, DOH conducted an adult compliance check of the Store and observed hundreds of Flavored Vapor Products available for sale in the back room, main store floor, behind the counter, and to the left of the counter. Respondent Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the August 15, 2023 inspection.

112. The clerk presented the DOH inspector the permanently revoked tobacco and vapor products certificates of registration, and expired certificates of authority for Pop-In Smoke & Vape LLC and Stop-In Smoke LLC—all with the same address at 5381 State Highway 7, Oneonta, NY 13820. The clerk also provided a valid certificate of authority for Pufftopia, LLC with the same address. While Pufftopia, LLC was incorporated on April 20, 2023, this was the first reference to the business that DOH observed. The clerk was instructed by the DOH inspector to cease sales of all Flavored Vapor Products and to remove them from the store immediately. The DOH inspector put the products in boxes and placed them in the back room.

113. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the August 15, 2023 inspection.

114. On August 18, 2023, DOH conducted an underage undercover buy at the Store. "TA", an individual under the age of 21, acting for DOH as an underage buyer, purchased a Flavored Vapor Product. TA asked the clerk for a non-tobacco Flavored Vapor Product. The clerk asked TA if she was 21 years old, and she responded "no." The clerk retrieved a BC5000

EBCreate Strawberry Ice Flavored Vapor Product from a black duffle bag behind the counter, which contained other Flavored Vapor Products, and sold it to TA for \$20.00. TA paid \$20.00 and was not provided a receipt.

115. The entire transaction was observed and documented by a DOH inspector. Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the August 18, 2023 inspection.

116. A month later, on September 28, 2023, DOH conducted an adult compliance check of the Store and observed that the store sign was changed to "Pufftopia." The DOH inspector observed 225 Flavored Vapor Products available for sale behind the counter, inside a glass case at the front counter, underneath the cash register, and in the back room.

117. Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the September 28, 2023 inspection.

118. During the September 28, 2023 compliance check, the clerk provided to the DOH inspector four DTF certificates of authority: two certificates of authority issued to Stop-In Smoke, LLC (validated on October 26, 2022 and October 27, 2022), one certificate of authority issued to Pop-In Smoke & Vape LLC (validated on May 2, 2022), and one certificate of authority issued to Pufftopia, LLC (validated on May 17, 2023). The clerk also presented to the DOH inspector Pop-In Smoke's permanently revoked DTF certificates of registration to sell cigarette and tobacco products and vapor products. The clerk did not present any certificates of registration to sell vapor products issued to Pufftopia or Stop-In Smoke, LLC.

119. The clerk was instructed to remove all Flavored Vapor Products from the Store. The DOH inspector put the products in boxes and placed them in the back room. DOH

observed a piece of mail in the back room addressed to “Fau Sharhan or Current Business Owner. Pop In Smoke Shop. 575 Main St Oneonta NY 13820.”

120. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the September 28, 2023 inspection.

August 6, 2024 Violation

121. On August 6, 2024, DOH went to Pufftopia and conducted an undercover buy, during which a DOH investigator approached the counter and asked for a “Crown Bar” disposable vapor product. The Store had a large “Pufftopia” sign at the front of it. The Store clerk responded that he did not have any Crown Bars and pointed her to a wall of Flavored Vapor Products behind the counter available for sale. The DOH investigator selected and purchased a RAZ DC25000 Strawberry Burst Flavored Vapor Product for \$26.00. DOH asked for and was provided a receipt that included the name “Pop-In Smoke & Vape.” Respondent Pop-In Smoke’s tobacco and vapor products certificates of registration were permanently revoked at the time of the August 6, 2024 inspection. Respondent Pufftopia did not have a tobacco and vapor products certificates of registration at the time of the inspection.

122. On October 24, 2024, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violation (“10/24/24 DOH Notice”) against Respondent Pop-In Smoke pursuant to Title 10 NYCRR Part 76.5, finding the following violation of the PHL: (a) on August 6, 2024, a Flavored Vapor Product was sold to a DOH inspector in violation of PHL § 1399-mm-1(2). A hearing was scheduled for December 5, 2024.

123. The 10/24/24 DOH Notice explained the penalties and fines associated with each violation. Respondent Pop-In Smoke was assessed a \$100.00 fine and \$250.00

surcharge for the PHL § 1399-mm-1(2) violation. A copy of the 10/24/24 DOH Notice was served on Pop-In Smoke by certified mail and by personal service pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a).

124. On December 11, 2024, the 10/24/24 DOH Notice was reissued, and a hearing scheduled for January 9, 2025. On December 23, 2024, DOH also reissued the 10/24/24 DOH Notice (“12/23/24 DOH Notice, #20240844”) against Pufftopia and rescheduled the same hearing to February 13, 2025.

October 29, 2024 Violations

125. On October 29, 2024, while hand-delivering the 10/24/24 DOH Notice to Pufftopia and informing the clerk about the hearing, DOH conducted an adult compliance check of Pufftopia. DOH observed at least 516 Flavored Vapor Products available for sale. Respondent Pop-In Smoke’s vapor products certificate of registration was permanently revoked at the time. Pop-In Smoke also did not have a valid certificate of authority at the time of the October 29, 2024 inspection.

126. The sign required under PHL § 1399-cc(2) prohibiting the sale of tobacco and other restricted products to persons less than 21 years-of-age was not on display during the October 29, 2024 inspection.

November 19, 2024 Closure of the Store

127. On November 19, 2024, DTF and OCM conducted a joint inspection of Pufftopia, accompanied by DOH. DOH was outside the Store while DTF and OCM conducted the inspection. Cannabis products were found at the Store despite it not having a license to sell cannabis products. DOH then conducted an adult compliance check and observed at least 737 Flavored Vapor Products available for sale on display, behind the counter, and in display cases.

Some of these Flavored Vapor Products were not kept behind the counter in an area accessible only to employees or in a locked container. After the inspections were completed, OCM sealed the Store.

128. Pop-In Smoke did not have a valid DTF tobacco or vapor products certificate of registration or certificate of authority at the time of the November 19, 2024 inspection. Pop-In Smoke's tobacco and vapor products certificates of registration were permanently revoked at the time of the November 19, 2024 inspection. Pufftopia did not have a valid DTF tobacco or vapor products certificate of registration at the time of the November 19, 2024 inspection. On December 11, 2024, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violations ("12/11/24 DOH Notice") against Respondent Pop-In Smoke and its owner, Respondent Eysa Sharhan, pursuant to Title 10 NYCRR Part 76.5, finding that the following violations occurred on October 29, 2024: (a) at least 516 Flavored Vapor Products were available for sale in violation of PHL § 1399-mm-1(2); and (b) on November 19, 2024, at least 737 Flavored Vapor Products were available for sale in violation of PHL § 1399-mm-1(2). A hearing was scheduled for January 9, 2025.

129. The 12/11/24 DOH Notice explained the penalties and fines associated with each violation. Pop-In Smoke was assessed a \$100.00 fine and \$250.00 surcharge for the PHL § 1399-mm-1(2) violation on October 29, 2024 and a \$100.00 fine and \$250.00 surcharge for the PHL § 1399-mm-1(2) violation on November 19, 2024. The assessed fines were \$25,800.00 with \$250.00 surcharge and \$38,850.00 with \$250.00 surcharge. The 12/11/24 DOH Notice then stated that fines were modified to \$12,900.00 with \$250.00 surcharge and \$18,425.00 with \$250.00 surcharge respectively. Respondent Pop-In Smoke owed \$31,825.00 in total.

130. On December 11, 2024, a DOH inspector visited Pufftopia after noticing that the doors were open even after Pufftopia had been sealed by OCM. There, he spoke with an individual named Tyrel Diamond, who informed him that Tyrel was hired by Respondent Pufftopia to box up products. The DOH inspector noticed that most products inside Pufftopia that were present on November 19, 2024, were no longer there.

131. On December 23, 2024, DOH reissued the 12/11/24 DOH Notice (“12/23/24 DOH Notice, #20241048”) against Respondent Pufftopia and rescheduled the hearing to February 13, 2025.

132. A copy of the 12/23/24 DOH Notice, #20241048 was served on Pufftopia by certified mail pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a).

Same Owners, Different Location and Name

133. On December 11, 2024, DOH conducted an adult compliance check of Royalty Tobacco located at 5626 State Highway 7, Suite 2, Oneonta, NY 13820. The DOH inspector recognized Tyrel Diamond, the same individual that the DOH inspector had talked to earlier that same day at Pufftopia. The DOH inspector also saw the clerk whom he had recognized from Pufftopia. DOH observed Flavored Vapor Products available for sale at the New Store. DOH told the clerk to cease all sales of Flavored Vapor Products and to remove them from the New Store. DOH then put the products in boxes and placed them in the back room of the New Store.

134. On January 6, 2025, DOH went to Pufftopia and observed that the store was closed. On the door were multiple signs from OCM stating:

WARNING: THIS BUSINESS IS SEALED BY ORDER OF THE CANNABIS
CONTROL BOARD.

REMOVING OR DEFACING THIS ORDER WILL RESULT IN
ADDITIONAL PENALTIES UNLESS RESCINDED BY THE
OFFICE OF CANNABIS MANAGEMENT.
ILLCIT CANNABIS SEIZED.

PURSUANT TO NEW YORK STATE CANNABIS LAW AND
REGULATIONS, ILLICIT CANNABIS HAS BEEN SEIZED AND THIS
LOCATION IS ORDERED TO CLOSE AND CEASE THE SALE OF
UNAPPROVED AND UNAUTHORIZED CANNABIS PRODUCTS.
ILLCIT CANNABIS PRODUCTS HAVE NOT BEEN TESTED OR
APPROVED BY OCM AND CAN POSE A THREAT TO PUBLIC HEALTH
AND SAFETY. THE UNLICENSED SALE OF CANNABIS AND CANNABIS
PRODUCTS IS STRICTLY PROHIBITED.

135. Also on the door was a handwritten note stating: “Thanks for stopping
in!!! Shop closed for now!!! Price Chopper Plaza / Same Owners New Shop / Call: 910-690-
9360.” DOH drove to Price Chopper Plaza that same day, which was approximately one mile
away from the Store. There, DOH observed a sign in its front window that read, “SMOKE
SHOP.” The New Store was located at 5626 State Highway 7, Suite 2, Oneonta, NY 13820 inside
Price Chopper Plaza.

136. The DOH investigator entered the New Store and asked the clerk if it sold
hookahs. The clerk responded that they do but that the hookah inventory was still at “Pufftopia.”
The clerk offered to retrieve a hookah from the Store once another store worker returned from
lunch. The DOH investigator then asked about flavored vapor products, to which the clerk
responded that Flavored Vapor Products are illegal in the New York State and that they are trying
to be discreet about their sale of these illicit products. The clerk asked if the investigator wanted
to return later to which she said no. The clerk then told the investigator that the Flavored Vapor
Products are hidden behind the curtain and directed her to an area behind a curtain in which the
investigator observed an array of Flavored Vapor Products on display. The DOH investigator
selected a frozen watermelon Flavored Vapor Product from behind the curtain and brought it to

the counter. She was told she could purchase the product \$20.00 or, inexplicably, two for \$50.00.

The investigator paid \$20.00 in cash and was not provided a receipt. After she asked about the New Store's name, the clerk provided the investigator a business card of the New Store: Royalty Tobacco with the address "5626 State Highway 7, Ste 2, Oneonta, New York 13820-2050."

January 9, 2025 Violation

137. On January 9, 2025, DOH conducted an underage undercover buy of Royalty Tobacco. The DOH inspector, an individual under the age of 21, entered Royalty Tobacco and asked the clerk if they had any vapes. The clerk directed the underage inspector behind a curtain to a wall of Flavored Vapor Products.

138. The underage inspector selected and purchased a VP V-Play CraftBox Watermelon Sour Berry Flavored Vapor Product for \$20.00. No receipt was provided. The VP V-Play CraftBox Watermelon Sour Berry Flavored Vapor Product has three different retro games and includes 20,000 puffs according to the product packaging. At no time during the transaction did the clerk performing the sale request proof of age or identification, or ask for the DOH inspector's age.

139. After the sale to the underage buyer, the DOH inspector reentered Royalty Tobacco and conducted an inspection. The DOH inspector informed the clerk that he was with the DOH and that the clerk had sold a Flavored Vapor Product to an individual under the age of 21 without requesting identification.

140. The DOH inspector observed about 200 Flavored Vapor Products and a box that held about 50 Flavored Vapor Products hidden behind the curtain, and took photos of the products. The DOH inspector also observed three large refrigerators on the right side of at the end of the New Store. The first refrigerator contained cannabis products. The second and third

refrigerators had approximately 20 Flavored Vapor Products and approximately 150-200 Flavored Vapor Products, respectively. The DOH inspector opened the fridge with cannabis products, and the clerk became argumentative and aggressive, swearing at the DOH inspector and stating that the DOH inspector could only look at vape boxes. The DOH inspector responded that he had to check whether the clerk was storing vapor products in those fridges. The DOH inspector went behind the counter of the facility and began inspecting the tobacco products, and the clerk yelled at the DOH inspector that he could only look at vapor, not tobacco, products. The clerk also grabbed products from the DOH inspector as he tried to take pictures of the products. The clerk also threatened the DOH inspector that they would “cause trouble around there, trouble you don’t want.” The clerk identified himself as Dj Ali. After, the DOH inspector explained the enforcement action to the clerk.

141. Royalty Tobacco’s vapor products certificate of registration had expired on December 31, 2024, and therefore did not have a valid vapor products certificate of registration at the time of the January 9, 2025 inspection. Royalty Tobacco had a certificate of authority at the time of the inspection.

142. On January 10, 2025, DOH returned to Pufftopia. The OCM placards and the sign stating: “Thanks for stopping in!!! Shop closed for now!!! Price Chopper Plaza / Same Owners New Shop / Call: 910-690-9360” were still on the door.

143. On April 1, 2025, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violations (“4/1/25 DOH Notice”) against Respondent Royalty Tobacco pursuant to Title 10 NYCRR Part 76.5, finding that the following violations occurred on January 9, 2025:

(a) at least 600 Flavored Vapor Products available for sale in violation of PHL § 1399-mm-1(2);

and (b) sale of a Flavored Vapor Product to an underage individual. A hearing was scheduled for May 1, 2025.

144. Respondent Royalty Tobacco was assessed a \$1,500.00 fine and \$250.00 surcharge for the PHL § 1399-cc(3) violation on January 9, 2025, and a \$100.00 fine and \$250.00 surcharge for the PHL § 1399-mm-1(2) violation on January 9, 2025. The assessed fines were \$300.00 with \$250.00 surcharge, and \$30,000.00 with \$250.00 surcharge respectively. The 4/1/25 DOH Notice then stated that fines were modified to \$15,000.00 with \$250.00 surcharge regarding the PHL § 1399-mm-1(2) violation. Respondent Royalty Tobacco owed \$15,800.00 in total.

145. A copy of the 4/1/25 DOH Notice was served on Royalty Tobacco by certified mail and by personal service on April 8, 2025, and April 11, 2025, pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a).

146. On April 16, 2025, DOH received a call from Mohamed J. Saleh (“Mr. Saleh”) at Buffalo Accounting Solutions Inc. informing DOH that he would send DOH his email address and that his client, the owner of Royalty Tobacco, would stop by that day to deliver a check. While on the call, DOH received an email from Mr. Saleh confirming that the owner would be stopping by that day with a check. DOH responded that Mr. Saleh’s client should sign the last page of the stipulation offer if they agreed to accept it and that if they would like a payment plan, DOH could accept a minimum of \$1,250 per month for a period of one year upon the client’s formal request. DOH did not receive a response, and the owner did not stop by that day. Instead, another individual later dropped off two checks at the Oneonta District Office on April 30, 2025, totaling \$2,150.00. *See infra* ¶ 152 (describing Royalty Tobacco’s payment plan).

147. On April 30, 2025, DOH sent a follow-up email to Mr. Saleh and asked if Mr. Saleh was representing Royalty Tobacco regarding the 4/3/25 DOH Notice. DOH informed Mr. Saleh to have Royalty Tobacco submit a stipulation agreement with a payment should they agree to accept the stipulation offer, and that there would be a hearing on 4/1/25 and 4/3/25 DOH Notices the following day if DOH did not receive an agreement. DOH did not receive a response. Mr. Saleh did not respond to the email.

148. DOH later sent a follow-up email and asked for the owner's full name and contact information. Mr. Saleh responded that day, providing the name of Ahmed Mozeb for the owner as well as the owner's phone number.

149. Respondent Royalty Tobacco responded to the 4/1/25 DOH Notice on April 30, 2025 and waived its right to a hearing on the alleged violations. The owner/operator of Royalty Tobacco, Respondent Mozeb, accepted the stipulation of allegations and signed the 4/1/25 DOH Notice, in which Royalty Tobacco admitted the following: (a) on January 9, 2025, at least 600 Flavored Vapor Products were present at Royalty Tobacco available for sale in violation of PHL § 1399-mm-1(2); and (b) on January 9, 2025, a sale of a Flavored Vapor Product was made to an underage individual in violation of PHL § 1399-cc(3). Respondent Royalty Tobacco stipulated to pay \$15,800.00 in total.

150. In addition, Respondent Royalty Tobacco agreed to physically remove prohibited tobacco and/or vapor products from its facility on or before May 1, 2025, or within 10 days of signing the stipulation agreement. By accepting the stipulation offer, the operator of Respondent Royalty Tobacco and Mozeb agreed to permanently remove prohibited Flavored Vapor Products from its facility within 10 days of signing the stipulation agreement. Likewise,

the operator attested that from signed date of the stipulation agreement, they would not distribute or sell Flavored Vapor Products again from any of their facilities in New York State.

151. On April 30, 2025, DOH issued an Administrative Tribunal Decision (“4/30/2025 Decision”) based on the April 30, 2025 stipulation entered into by Royalty Tobacco and signed by Respondent Mozeb.

152. Respondent Royalty Tobacco is currently on a monthly payment plan to pay the fines for the January 9, 2025 violation, with the owed amount varying each month. For the January 9, 2025 violation, Respondents owe \$1,075.00 each month starting from June 30, 2025 until January 30, 2026; \$2,150.00 each month from February 28, 2026 until March 30, 2026; \$1,075.00 by May 30, 2025; \$1,825.00 by April 30, 2026. On April 30, 2025, Royalty Tobacco made a payment of \$1,075.00 under the stipulation signed regarding the January 9, 2025 violation.

March 13, 2025 Violation

153. On March 13, 2025, the DOH conducted an underage undercover buy at Royalty Tobacco. The DOH inspector, an individual under the age of 21, entered the New Store and requested a Geek Bar Flavored Vapor Product. The clerk directed the underage inspector behind the curtain to a wall of Flavored Vapor Products.

154. The underage inspector selected and purchased an adjust myflavor Orange Strawberry Flavored Vapor Product, with which a consumer is able to personalize the flavor of the product to increase the orange and/or strawberry flavors for \$20.00 in cash. No receipt was provided. At no time during the transaction did the clerk performing the sale request proof of age, or ask the underage inspector’s age.

155. After the sale, the same DOH inspector reentered Royalty Tobacco, informed the New Store's clerk that he was with DOH, and conducted an inspection. The DOH inspector went to the area behind the curtain and to the left of the area, where he observed about 150-200 Flavored Vapor Products. The DOH inspector also observed multiple bags of cannabis products and 3-4 sealed boxes of Flavored Vapor Products in the area where the refrigerators were located. Each sealed box held 5 Flavored Vapor Products. Most products had been removed from the refrigerators. After, the DOH inspector explained the enforcement action to the clerk.

156. Royalty Tobacco did not have a valid vapor products certificate of registration at the time of the March 13, 2025 inspection.

157. On April 3, 2025, DOH issued a Notice of Hearing, Offer of Settlement, and Finding of Violations ("4/3/25 DOH Notice") against Respondent Royalty Tobacco pursuant to Title 10 NYCRR Part 76.5, finding that the following violations occurred on March 13, 2025: (a) at least 226 Flavored Vapor Products were available for sale in violation of PHL § 1399-mm-1(2); and (b) sale of a Flavored Vapor Product was made to an underage individual in violation of PHL § 1399-cc(3). A hearing was scheduled for May 1, 2025.

158. The 4/3/25 DOH Notice explained the penalties and fines associated with each violation. Respondent Royalty Tobacco was assessed a \$2,500.00 fine and \$250.00 surcharge for the PHL § 1399-cc(3) violation on March 13, 2025 and a \$100.00 fine and \$250.00 surcharge for the PHL § 1399-mm-1(2) violation on March 13, 2025. The assessed fines were \$1,000.00 with \$250.00 surcharge and \$16,950.00 with \$250.00 surcharge. The fines were modified to \$8,475.00 with \$250.00 surcharge for the PHL § 1399-mm-1(2) violation. Respondent Royalty Tobacco owed \$9,975.00 in total.

159. The 4/3/25 DOH Notice was served on Royalty Tobacco by certified mail and by personal service on April 8, 2025 and April 11, 2025, pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a). Further, a copy of the 4/1/25 and 4/3/25 DOH Notices were served on Royalty Tobacco by personal service on April 11, 2025 pursuant to PHL § 12-a, and Title 10 NYCRR Part 76.5(a).

160. Specifically, the DOH inspector spoke with the Royalty Tobacco employee Tony Ali on April 11, 2025, and along with information including the hearing dates, he informed Tony Ali that the documents must be provided to the owner of Royalty Tobacco. Tony Ali said that he would but refused to provide the owner's contact information upon the DOH inspector's request.

161. Respondent Royalty Tobacco responded to the 4/3/25 DOH Notice on April 30, 2025 and waived its right to a hearing on the alleged violations. The owner/operator of Royalty Tobacco, Respondent Mozeb, accepted the stipulation of allegations and signed the 4/3/25 DOH Notice in which Respondent Royalty Tobacco admitted the following: (a) on March 13, 2025, at least 226 Flavored Vapor Products were present at Royalty Tobacco available for sale in violation of PHL § 1399-mm-1(2); and (b) on March 13, 2025, a sale of a Flavored Vapor Product was made to an underage individual. Respondent Royalty Tobacco stipulated to pay \$9,975.00 in total.

162. In addition, Respondent Royalty Tobacco agreed to physically remove prohibited tobacco and/or vapor products from its facility on or before May 1, 2025, or within 10 days of signing the stipulation agreement. By accepting the stipulation offer, Respondents Royalty Tobacco and Mozeb agreed to permanently remove prohibited Flavored Vapor Products from its facility within 10 days of signing the stipulation agreement. Likewise, the operator

attested that from signed date of the stipulation agreement, they would not distribute or sell Flavored Vapor Products again from any of their facilities in New York State.

163. On April 30, 2025, DOH issued an Administrative Tribunal Decision (“4/30/2025 Decision”) based on the April 30, 2025 stipulation entered into by Royalty Tobacco and signed by Mozeb.

164. Respondent Royalty Tobacco is currently on a monthly payment plan to pay the fines for the March 13, 2025 violation, with the owed amount varying each month. For the March 13, 2025 violation, Respondents owe \$1,075.00 each month starting June 30, 2025 until January 30, 2026, and \$800.00 by February 28, 2026. Royalty Tobacco made a payment of \$1,075.00 under the stipulation signed on that same date regarding the March 13, 2025 violation.

165. Currently, Respondents are behind on their payment plan. As of July 29, 2025, Respondents owe \$14,725.00 for the January 9, 2025 violation and \$8,900.00 for the March 13, 2025 violation.

September 5, 2025 Violation

166. On September 5, 2025, the DOH conducted an underage undercover buy at Royalty Tobacco with the Otsego County Sheriff’s Department.

167. “MM”, an individual under the age of 21, acting for DOH as an underage buyer, entered Royalty Tobacco with an undercover Otsego County Sheriff’s Department Officer. The Otsego County Sheriff’s Officer was present during the entire transaction. MM purchased an RYL Classic Miami Mint Flavored Vapor Product from the clerk for \$25.00, and no receipt was provided. At no time during the transaction did the clerk performing the sale request proof of age or identification, or ask for MM’s age.

168. After the sale to the underage buyer, the DOH inspector and the Otsego County Sheriff's Department Officers identified themselves and conducted an adult inspection. The DOH inspectors observed 186 Flavored Vapor Products stored in refrigerators inside the back room.

169. The DOH inspector informed the employee that an underage compliance check was performed and that the employee had sold a Flavored Vapor Product to an underage individual. The employee identified himself as Hamad Ali and stated that he was not the owner of Royalty Tobacco. Upon request, Hamad Ali named "Ahmed Mozib" as the manager of Royalty Tobacco. Upon information and belief, Hamad Ali was referring to Respondent Ahmed Mozeb.

170. After DOH counted the Flavored Vapor Products, DOH boxed up the products and instructed the clerk to cease sales of all non-tobacco Flavored Vapor Products with nicotine and to remove them from the retail store immediately. The clerk was informed that the Flavored Vapor Products can be returned to the distributor or disposed of in an appropriate manner.

171. Royalty Tobacco's vapor products certificate of registration had expired on December 31, 2024, and therefore did not have a valid vapor products certificate of registration at the time of the September 5, 2025 inspection. Royalty Tobacco had a valid certificate of authority at the time.

**FIRST CAUSE OF ACTION
PURSUANT TO EXECUTIVE LAW § 63(12): REPEATED ILLEGALITY
VIOLATIONS OF ARTICLE 13-F OF THE PUBLIC HEALTH LAW**

172. Petitioner reaffirms and re-alleges all allegations contained in the paragraphs above as if the same were fully set forth herein.

173. New York Executive Law § 63(12) empowers the Attorney General to seek restitution and injunctive relief when any person or business entity has engaged in repeated illegal acts or otherwise demonstrates illegality in the carrying on, conducting, or transaction of business.

174. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling and/or offering for sale Flavored Vapor Products. PHL § 1399-mm-1(2).

175. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling vapor products to individuals under the age of twenty-one. PHL § 1399-cc(2).

176. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling vapor products to individuals without first requiring government issued identification for proof of age. PHL § 1399-cc(3).

177. Respondents have repeatedly violated Article 13-F of the Public Health Law, by failing to display a sign prohibiting the sale of tobacco and vapor products to persons under the age of twenty-one. PHL § 1399-cc(2).

178. Respondents have repeatedly violated Article 13-F of the Public Health Law, by failing to display and store electronic cigarettes offered for sale behind the counter in an area accessible only to store personnel or in a locked container. PHL § 1399-cc(7).

179. Respondents have therefore engaged in repeated and persistent illegality in violation of Executive Law § 63(12).

**SECOND CAUSE OF ACTION
PURSUANT TO EXECUTIVE LAW § 63(12): REPEATED ILLEGALITY VIOLATIONS
OF THE TAX LAW
VIOLATIONS OF SECTION 1183 OF THE TAX LAW**

180. Petitioner reaffirms and re-alleges all allegations contained in the paragraphs above as if the same were fully set forth herein.

181. New York Executive Law § 63(12) empowers the Attorney General to seek restitution and injunctive relief when any person or business entity has engaged in repeated illegal acts or otherwise demonstrates illegality in the carrying on, conducting, or transaction of business.

182. Respondents have repeatedly violated Section 1183 of the Tax Law by engaging in the business of selling vapor products without a vapor products certificate of registration from the Commissioner of DTF.

183. Respondents have therefore engaged in repeated and persistent illegality in violation of Executive Law § 63(12).

**THIRD CAUSE OF ACTION
PURSUANT TO PUBLIC HEALTH LAW § 12**

184. Petitioner reaffirms and re-alleges all allegations contained in the paragraphs above as if the same were fully set forth herein.

185. PHL § 12 provides for the imposition of civil penalties and for issuance of injunctive relief when any person violates any provision of the Public Health Law or the regulations issued pursuant thereto, or disobeys or disregards any lawful notice or order of DOH issued pursuant thereto.

186. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling and/or offering for sale Flavored Vapor Products. PHL § 1399-mm-1(2).

187. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling vapor products to an individual under the age of twenty-one. PHL § 1399-cc(2).

188. Respondents have repeatedly violated Article 13-F of the Public Health Law, by selling vapor products to an individual without first requiring government issued identification for proof of age. PHL § 1399-cc(3).

189. Respondents have repeatedly violated Article 13-F of the Public Health Law, by failing to display and store electronic cigarettes offered for sale behind the counter in an area accessible only to store personnel or in a locked container. PHL § 1399-cc(7).

190. Respondents have repeatedly violated Article 13-F of the Public Health Law, by failing to display a sign prohibiting the sale of tobacco and vapor products to persons under the age of twenty-one. PHL § 1399-cc(2).

191. Petitioner now seeks the imposition of civil penalties, and the issuance of injunctive relief for Respondents' violations of the Public Health Law, and the regulations issued pursuant thereto.

WHEREFORE, Petitioner requests the Court issue an Order and Judgment against Respondents, their agents, trustees, servants, employees, successors, heirs and assigns, or any other person under their direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device through which they may now or hereafter act or conduct business, as follows:

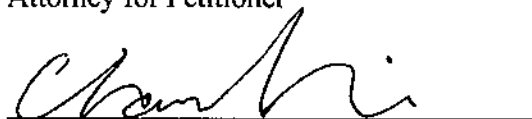
- a) preliminarily and permanently enjoining Respondents from engaging in the business of selling, marketing, or otherwise distributing vapor products;
- b) permanently enjoining each Respondent from applying for or receiving a certificate of authority or a certificate of registration from DTF;
- c) permanently enjoining Respondents from violating Article 13-F of the Public Health Law;
- d) permanently enjoining Respondents from violating Section 1183 of the Tax Law;

- e) requiring that Respondents prepare an accounting of all Flavored Vapor Products sold or offered for sale from April 29, 2022 to present, including the (i) name of the product, (ii) the manufacturer and/or distributor of the product, (iii) a description of the product, (iv) the retail price of the product, (v) the sale price of the product; (vi) the number units of the product sold, and (vii) profits earned from each product;
- f) requiring that Respondents disgorge all profits resulting from the illegal practices alleged herein;
- g) issuing fines and granting penalties pursuant to Public Health Law § 12;
- h) issuing fines and granting penalties pursuant to Articles 13-E and 13-F of the Public Health Law;
- i) issuance of a civil fine pursuant to Tax Law § 1183;
- j) granting costs to the State of New York against Respondents pursuant to CPLR § 8303(a)(6);
- k) directing Respondents to fully comply with the Administrative Law Judge Decisions on July 20, 2022, August 10, 2022, December 9, 2022, and April 20, 2023, including payment of all fines and civil penalties due;
- l) directing Respondents to remove all vapor products from the Store located at 5381 State Highway 7, Oneonta, NY 13820 and the New Store located at 5626 State Highway 7, Suite 2, Oneonta, NY 13820, and to provide proof of their removal;
- m) directing the closure of Respondents' Store located at 5381 State Highway 7, Oneonta, NY 13820 and New Store located at 5626 State Highway 7, Suite 2, Oneonta, NY 13820;

- n) prohibiting Respondents, their agents, assigns or representatives, from owning, operating, supervising, managing, or otherwise partaking in any aspect of any entity whose primary or secondary business is in the retail sale of vapor products; and
- o) for such other and further relief as the Court deems just and proper.

Dated: October 23, 2025
New York, New York

LETITIA JAMES
Attorney General of the State of New York
Attorney for Petitioner



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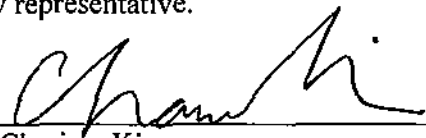
VERIFICATION

STATE OF NEW YORK)
) ss.:
 COUNTY OF New York

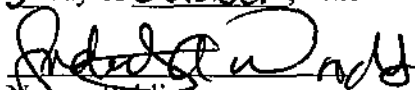
CHARISSA KIM, being duly sworn, deposes and says: She is an Attorney General Fellow in the office of Letitia James, Attorney General of the State of New York, and is duly authorized to make this verification.

She has read the foregoing petition and knows the contents thereof, and the same is true to her own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, she believes them to be true.

The reason this verification is not made by Petitioner is that Petitioner is a body politic. The Attorney General is Petitioner's statutory representative.


 Charissa Kim

Sworn to before me this
 23 day of October, 2025


 Notary Public

