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HARMONI INTERNATIONAL SPICE, INC. AND
11 ZHENGZHOU HARMONI SPICE CO., LTD.

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 HARMONI INTERNATIONAL SPICE, INC., a
California corporation, and ZHENGZHOU
15 HARMONI SPICE CO., LTD., a corporation,

16 Plaintiffs,

17 vs.

18 WENXUAN BAI, an individual, JICHENG YE,
an individual, RUOPENG WANG, an
19 individual, ROBERT T. HUME, an individual,
JOEY C. MONTOYA, an individual, STANLEY
20 CRAWFORD, an individual, AVRUM KATZ,
an individual, HUAMEI CONSULTING CO.,
21 INC., a corporation, HUAMEI CONSULTING
CO., LTD., a corporation, KWO LEE, INC., a
22 corporation, SHUZHANG LI, an individual, C
AGRICULTURE GROUP CORP., a
23 corporation, HEIBEI GOLDEN BIRD
TRADING CO., LTD., a corporation,
24 QINGDAO TIANTAIXING FOODS, CO.,
LTD., a corporation, JINXIANG HEJIA CO.,
25 LTD., a corporation, QINGDAO LIANGHE
INTERNATIONAL TRADING CO., LTD., a
26 corporation, CHEN HONGXIA, an individual,
JIN XIA WEN, an individual, MINGJU XU, an
27 individual, CAI DU, an individual, QINGHUI
ZHANG, an individual, LUCY WANG, an
28 individual,

Defendants.

Case No. 2:16-cv-00614-BRO-ASx

Hon. Beverly Reid O'Connell

SECOND AMENDED COMPLAINT FOR:

- 1) **Violation of RICO
(18 U.S.C. § 1962(c));**
- 2) **Violation of RICO
(18 U.S.C. § 1962(d)).**

DEMAND FOR JURY TRIAL

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1 Plaintiffs Harmoni International Spice, Inc. (“Harmoni”) and Zhengzhou
2 Harmoni Spice Co., Ltd. (“Zhengzhou Harmoni”) respectfully allege, with knowledge
3 as to their own actions and on information and belief as to all other allegations,
4 including but not limited to the actions of others, as follows:

5 **I. INTRODUCTION**

6 1. This is a civil action for wire and mail fraud and extortion perpetrated in
7 connection with Defendants’ unlawful conspiracy to dominate the United States
8 market for fresh Chinese garlic and to economically cripple Zhengzhou Harmoni,
9 which produces and exports fresh garlic to the United States from the People’s
10 Republic of China (“China”), as well as its parent Harmoni, which imports Zhengzhou
11 Harmoni’s garlic. Plaintiffs seek treble damages and attorneys’ fees under the
12 Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.*
13 (“RICO”).

14 2. The story begins in 1994, when the Department of Commerce (the
15 “DOC”) issued an antidumping order covering fresh garlic from the People’s Republic
16 of China (the “Chinese Garlic Order”).

17 3. As a result of the Chinese Garlic Order, exporters of Chinese garlic were
18 assessed hefty antidumping duties which had to be deposited by their importer
19 customers in the United States.

20 4. Since that time, the DOC has conducted annual administrative reviews of
21 companies subject to the Chinese Garlic Order as well as reviews of “new shippers” of
22 Chinese garlic (*i.e.*, companies which did not export garlic to the United States during
23 the original review period and are not affiliated, directly or indirectly, with companies
24 which did).

25 5. In accordance with these reviews, the vast majority of Chinese garlic is
26 still subject to hefty duties. This is due largely to persistent violations of U.S.
27 antidumping regulations by Chinese garlic exporters.

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1 6. The notable exception is garlic imported by Harmoni from Zhengzhou
2 Harmoni, its wholly-owned Chinese subsidiary. Upon commencing its exportation of
3 garlic to the United States in 2001, Zhengzhou Harmoni legitimately obtained a zero-
4 duty rate under the U.S. antidumping laws and has maintained that rate through the
5 present day.

6 7. As a result, Zhengzhou Harmoni enjoys a lawful advantage in the U.S.
7 marketplace compared to other Chinese garlic exporting companies, which are subject
8 to a range of higher rates.

9 8. Similarly, due to its position as Zhengzhou Harmoni’s parent and
10 exclusive importer, Harmoni enjoys an advantage in the U.S. marketplace compared
11 to other importers, all of whom are subject to significant antidumping duty deposits
12 and assessments due to their exporter suppliers’ continued dumping.

13 9. Rather than comply with U.S. antidumping laws in order to improve their
14 competitive position, Defendants participated in an Enterprise which embarked upon a
15 series of unlawful and illegal acts designed to defraud the DOC, U.S. Customs and
16 Border Protection (“Customs”), the agency charged with administering the DOC’s
17 antidumping orders, and the United States Court of International Trade (the “CIT”).

18 10. Specifically, Defendants repeatedly made false statements and submitted
19 forged documents in order to injure Plaintiffs in their Chinese garlic business in the
20 United States, obtain for themselves (and a number of other companies within their
21 control) undeservedly favorable dumping duties and to damage Plaintiffs’
22 relationships with their customers while severely eroding Plaintiffs’ market share.

23 11. Defendants have also made a series of false or fraudulent statements
24 regarding Harmoni and Zhengzhou Harmoni in order to damage Plaintiffs’
25 relationships with both their customers and the U.S. government, and with the
26 extortionate intent of forcing Plaintiffs to pay millions of dollars for Defendants to
27 cease engaging in such unlawful conduct.

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1 12. The illegal Enterprise has several key components: (1) the fraudulent use
2 under false pretenses of Defendants Stanley Crawford (“Crawford”) and Avrum Katz
3 (“Katz”) to serve as secret agents for members of the Chinese Garlic Association (a
4 group of Chinese garlic exporters owned or controlled by Defendants Wenxuan Bai
5 (“Bai”), Jicheng Ye (“Ye”), and Ruopeng Wang (“Wang”)) to file sham review
6 requests against Plaintiffs before the DOC – not to protect the domestic garlic
7 industry, but rather to benefit producers and importers of Chinese garlic who are
8 members of the Enterprise; (2) the submission and publication of false statements and
9 forged documents to the DOC and others to injure Plaintiffs’ business and obtain
10 favorable dumping duty treatment for members of the Chinese Garlic Association to
11 which they had no legal entitlement; and (3) the use of threats and false assertions to
12 inflict damages upon and seek millions of dollars in extortion from Plaintiffs.

13 13. These fraudulent representations have included false assertions that
14 Plaintiffs use prison labor to produce their Chinese garlic; false assertions that
15 Plaintiffs serve as a secret funnel to import Chinese garlic from other companies in
16 order to evade their high dumping rates; false assertions and forged documents to
17 disguise the funneling by certain Defendants of Chinese garlic from companies with
18 high duty rates; and false assertions to cover up the fact that Katz and Crawford are
19 fronts for the interests of various Enterprise members who are importers of Chinese
20 garlic (in fact, Defendant Robert T. Hume (“Hume”) and Defendant Joey C. Montoya
21 (“Montoya”) recruited them for this very purpose).

22 14. The benefits to Defendants from this unlawful Enterprise have included,
23 as described below, the increase in market share from Chinese garlic sales in the
24 United States for numerous members of the Enterprise who import and sell Chinese
25 garlic at the expense of Plaintiffs. At the same time, Hume and Montoya have
26 benefitted through payments received from other Defendants, and Crawford and Katz
27 have benefitted by, for example, Crawford’s trip to China paid for in significant part
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1 by one of the Enterprise’s members, the payment of their legal fees, and other
2 consideration to be identified in discovery.

3 15. Defendants’ scheme is driven by Bai, a Chinese businessman who at all
4 relevant times has owned and/or controlled, either directly or through family
5 members, a number of different entities exporting fresh garlic to the United States,
6 including, but not limited to, Defendant Qingdao Tiantaixing Co., Ltd. (“QTF”),
7 Defendant Qingdao Lianghe International Trading Co., Ltd. (“Lianghe”), and Qingdao
8 Xintianfeng Foods Co., Ltd. (“QXF”). Bai has also been actively involved in the
9 business operations of Defendant Heibei Golden Bird Trading Co., Ltd. (“Golden
10 Bird”), another large Chinese exporter whose business operations are intertwined with
11 those of QTF, QXF, and Lianghe.

12 16. Ye is a Chinese businessman acting in concert with Bai in an effort to
13 destroy Plaintiffs’ competitive position in the U.S. garlic market and to replace
14 Zhengzhou Harmoni’s exports with garlic exported by his own companies or those of
15 his co-conspirators. At all relevant times, Ye has owned and/or controlled a number
16 of different entities exporting fresh garlic to the United States, including but not
17 limited to Defendant Jinxiang Hejia Co., Ltd. (“Hejia”) and Sunny Import and Export
18 Limited (“Sunny Import/Export”). Ye also owns or controls Huameng Import &
19 Export Co. (“Huameng”), an exporter and alleged producer of fresh garlic currently
20 participating in a new shipper review before the DOC.

21 17. Bai and Ye are actively assisted by Wang, a Chinese businessman who
22 controls and operates Golden Bird.

23 18. Of particular importance, Wang also controls Defendant Huamei
24 Consulting Co., Ltd. (“Huamei China”), a company based in China that provides
25 assistance to Chinese exporters and their affiliates (including companies owned by Bai
26 and Ye) in their dealings with the DOC, and Defendant Huamei Consulting Co., Inc.
27 (“Huamei USA”), the U.S. branch of Huamei China. Huamei China and Huamei
28 USA are collectively referred to herein as “Huamei.”

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1 19. In providing these services, Huamei works closely with Hume &
2 Associates LLC (“Hume & Associates”), a law firm based until recently in Ojai,
3 California, and now headquartered in El Prado, New Mexico. According to its
4 website, Hume & Associates “consults on international trade and U.S. customs cases,
5 which include assisting overseas clients expand their business in the United States.”

6 20. As a general matter, Huamei and its employees act as liaisons between
7 the Chinese garlic exporters owned or controlled by Bai, Ye, and Wang (referred to as
8 the “Chinese Garlic Association”) and the lawyers at Hume & Associates, who act on
9 behalf of those companies in the United States. (For some of the relevant time period,
10 Huamei and its Chinese clients were also assisted in the United States by Zhao-King
11 LLC, d/b/a Trade Bridge (“Trade Bridge”), a now-defunct law firm affiliated with
12 Hume.)

13 21. The lawyers at, or previously at, Hume & Associates working to further
14 the ends of the Chinese Garlic Association in the United States include Hume, who
15 owns the firm, and Montoya. The ties between Hume and Huamei are very tight.
16 Hume is the registered agent for Huamei USA in the State of California, and Hume &
17 Associates’ former offices in Ojai were adjacent to those of Huamei USA.

18 22. At the direction of Huamei and other Enterprise members, Hume and
19 Montoya recruited Crawford and Katz, two New Mexico-based hobby farmers with no
20 financial stake in the outcome of the U.S. antidumping administrative review process
21 (other than economic benefits received from Chinese Garlic Association companies in
22 exchange for filing the review request), to file baseless sham review requests
23 containing false and misleading allegations against Plaintiffs. These filings are part of
24 an ongoing effort to force Plaintiffs to incur the significant expense and burdens
25 associated with an administrative review, strip Plaintiffs of their lawful competitive
26 advantage due to their zero dumping duty rate, and increase the Chinese garlic market
27 share of various Enterprise members: Bai, Ye, Wang, and the Chinese corporations
28 under their control. Indeed, Hume, Montoya, Crawford, and Katz concealed the fact,

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1 through false representations, that Crawford and Katz filed their review requests not to
2 benefit the domestic industry, but as secret fronts for the other members of the
3 Enterprise who imported Chinese garlic, and who were also clients of Hume.

4 23. These filings were not a good faith effort to invoke the administrative
5 process of the dumping laws to protect the domestic industry. They were, instead,
6 part of a conspiratorial effort by the members of the Enterprise to benefit themselves
7 and inflict harm upon Plaintiffs, by, among other things, forcing them either to incur
8 the significant expense and burdens associated with an administrative review or pay
9 millions of dollars in extortion to have the review requests withdrawn.

10 24. Moreover, the review requests were filed with the knowledge that if no
11 extortion was paid by Plaintiffs, a new zero duty rate for Zhengzhou Harmoni would
12 benefit the Enterprise by reducing the overall industry-wide antidumping rate, and
13 thus, increasing the market share of Enterprise members, such as Bai, Ye, Wang, and
14 the Chinese corporations under their control, who imported Chinese garlic into the
15 United States in competition with Plaintiffs.

16 25. The review requests made by Crawford and Katz were bankrolled by a
17 \$1.6 million “war chest” set up for the Enterprise at Hume and Wang’s instigation by
18 the Chinese Garlic Association in September 2014. This war chest was created for the
19 purpose of destroying Plaintiffs’ business in the United States and replacing
20 Zhengzhou Harmoni’s exports with Chinese garlic exported by companies controlled
21 by Bai, Ye, and Wang unless Plaintiffs would agree to meet the extortionate cash
22 payment demands of the Enterprise.

23 26. Finally, another member of the Enterprise, Defendant C Agriculture
24 Group Corp. (“C Agriculture”), a fresh garlic reseller run by Defendants Jin Xia Wen
25 (“Wen”) and Mingju Xu (“Xu”) and having close ties to Bai, Ye, Huamei, Hume, and
26 other Defendants, sent a false and extortionate letter to Harmoni and one of its largest
27 U.S. customers, Christopher Ranch L.L.C. (“Christopher Ranch”), in an attempt to
28 destroy Plaintiffs’ reputation and business relations and extort millions of dollars from

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1 Plaintiffs. In the letter, C Agriculture levels a number of false assertions against
2 Harmoni and demands an immediate and extortionate payment of \$32 million in
3 exchange for its promise not to levy these false accusations more broadly in a sham
4 antitrust suit.

5 27. In addition, C Agriculture, in conjunction with other members of the
6 Enterprise, participated in a scheme to circumvent high dumping rates assigned to
7 Chinese garlic shipped by various exporters affiliated with Bai by submitting
8 fraudulent documentation to U.S. Customs misrepresenting the source of the garlic
9 being imported. By promoting the importation of Chinese garlic into the United
10 States by Enterprise members through false and fraudulent documents at rates far
11 below those assigned to that garlic by the DOC, C Agriculture furthered the overall
12 scheme of the Enterprise and caused significant additional damage to both Harmoni
13 and Zhengzhou Harmoni.

14 28. Defendants' numerous fraudulent and criminal acts perpetrated in
15 furtherance of the Enterprise's scheme to injure Plaintiffs, and to gain share in the
16 U.S. market for Chinese garlic at the expense of Plaintiffs, is precisely the type of
17 collusive scheme, carried out through criminal acts, that the RICO Act has made
18 unlawful.

19 **II. JURISDICTION AND VENUE**

20 29. This Complaint is filed, and this Court has subject matter jurisdiction of
21 the matters complained of, pursuant to 28 U.S.C. § 1331 and 18 U.S.C. § 1964.

22 30. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because
23 Plaintiff Harmoni and Defendants Hume and Huamei USA resided in the District
24 during some or all of the relevant time period, Kwo Lee is incorporated under
25 California law and Bai is president of a California corporation, a substantial part of the
26 events giving rise to the claims occurred in this District, and Defendants transact
27 business and/or purposefully availed themselves to the privilege of conducting
28 activities directed at, and intended to cause harm to, Plaintiffs in this District. Venue

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1 is also proper under the nationwide jurisdiction provisions of RICO, 18 U.S.C. §
2 1965, as set forth in Section IV, *infra*.

3 **III. DESCRIPTION OF THE PARTIES**

4 **Plaintiffs**

5 31. Plaintiff Harmoni is, and at all times relevant was, a California
6 “Subchapter S” Corporation with its principal place of business in the City of
7 Industry, County of Los Angeles, State of California. Harmoni is engaged in, *inter*
8 *alia*, the importation and sale of fresh garlic, including garlic bulbs and peeled garlic,
9 dehydrated garlic, ginger, and paprika. Harmoni acts as the exclusive importer of
10 Zhengzhou Harmoni’s Chinese garlic for the U.S. market.

11 32. Plaintiff Zhengzhou Harmoni is a subsidiary of Harmoni which has as its
12 principal place of business the Henan Province of China. Zhengzhou Harmoni is
13 engaged in the production, exportation, and sale of fresh garlic, including garlic bulbs
14 and peeled garlic from China to the United States.

15 **Defendants**

16 33. Defendant Bai is an individual residing in China. Bai is the owner of, or
17 otherwise associated with, QTF, QXF, Lianghe, and Golden Bird, all of which have
18 exported (or continue to export) fresh garlic to the United States. Bai is also the
19 President of Nature Garden Farm Corporation, a California company with its primary
20 place of business in Bakersfield, California.

21 34. Defendant Ye is an individual residing in China. Ye is an owner of, or
22 otherwise associated with, Sunny Import/Export and Hejia, both of which have
23 produced or sold Chinese fresh garlic for export to the U.S. market.

24 35. Defendant Wang is an individual residing in China. Wang owns and/or
25 controls Huamei China, Huamei USA, and Golden Bird.

26 36. Defendant Hume is an individual residing in the City of El Prado, State
27 of New Mexico. During some or all of the relevant time period, Hume, who is
28 admitted to practice law before the CIT, as well as in Washington, D.C., Hawaii, and

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1 Virginia, resided in and had as his principal place of business the City of Ojai, County
2 of Ventura, State of California. Hume is a principal and founder of Hume &
3 Associates.

4 37. Defendant Montoya is an individual currently believed to reside in the
5 City of Santa Fe, State of New Mexico. During the relevant time period, Montoya
6 was an associate attorney with Hume & Associates. Montoya is admitted to practice
7 law before the CIT and in New Mexico. Montoya left Hume & Associates shortly
8 after this case was filed.

9 38. Defendant Crawford is an individual residing in the City of Dixon, State
10 of New Mexico. Crawford claims to grow garlic and other produce on his two-acre
11 farm, known as El Bosque Garlic Farm (“El Bosque”), and sells his products at the
12 Santa Fe Farmers Market. Crawford is also an author of several books regarding
13 sustenance farming of garlic and other topics, including but not limited to *Intimacy*,
14 *Seed, The Canyon, Petroleum Man, The River in Winter, A Garlic Testament*,
15 *Mayordomo, Some Instructions, Log of the S.S. the Mrs. Unguentine*, and *Travel*
16 *Notes*, all of which are available for purchase online and which have been sold to
17 consumers located in California.

18 39. Defendant Katz is an individual residing in the Community of Llano,
19 State of New Mexico. Katz claims to grow garlic and other produce on his farm,
20 known as Boxcar Farm, and sells his products at the Santa Fe Farmers Market.

21 40. Defendant Huamei USA is, and at all relevant times was, a California
22 Corporation with its principal place of business in the City of Ojai, County of
23 Ventura, State of California. Huamei USA, an affiliate of Huamei China, works with
24 Hume & Associates and Huamei China to provide producers, exporters, and U.S.
25 importers of Chinese garlic with a variety of services to help them increase their
26 market share in the United States.

27 41. Defendant Huamei China is, and at all relevant times was, a Chinese
28 corporation with its principal place of business in Shijiazhuang, Heibei Province,

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1 China. It provides Chinese producers and exporters with a variety of services
2 concerning antidumping matters, including preparation of accounting records and
3 submissions to the DOC in antidumping reviews and new shipper reviews.

4 42. Defendant Kwo Lee is, and at all relevant times was, a California
5 Corporation with its principal place of business in the City of St. Louis, State of
6 Missouri. Kwo Lee is engaged in the importation of fresh garlic from China for a
7 number of companies owned and/or controlled by Bai and Wang.

8 43. Defendant Shuzhang Li (“Li”), also known as Steven Li, is an individual
9 residing in the City of St. Louis, State of Missouri. Li is the owner of Kwo Lee.

10 44. Defendant C Agriculture is, and at all relevant times was, a New York
11 Corporation with its principal place of business in the New York City, State of New
12 York. C Agriculture, which does business in the United States, including New York
13 and California, is an importer and distributor of fresh garlic and other spices and
14 vegetables.

15 45. Defendant Golden Bird is, and at all relevant times was, a Chinese
16 corporation with its principal place of business in China. Golden Bird’s business
17 focuses on the import and export of various products, including garlic and other farm
18 products, agricultural by-products, light industrial products, chemical products,
19 electronic products, machine equipment, construction materials, and automobile
20 products.

21 46. Defendant QTF is, and at all relevant times was, a Chinese corporation
22 with its principal place of business in China. QTF, which is owned and/or controlled
23 by Bai, exports farm products, particularly ginger, garlic, chili, apples, and pears to
24 the United States.

25 47. Defendant Hejia is, and at all relevant times was, a Chinese corporation
26 with its principal place of business in China. Hejia exports fresh garlic to the U.S.
27 market.

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1 48. Defendant Lianghe is, and at all relevant times was, a Chinese
2 corporation with its principal place of business in China. Lianghe is a trading
3 company involved in the purchase and export of agricultural products, including
4 garlic.

5 49. Defendant Chen Hongxia (“Chen”), an individual residing in China, is
6 Defendant Bai’s wife. Chen is the owner of Lianghe.

7 50. Defendant Wen, also known as Wennie Wen, is an individual residing in
8 New York City, New York. Wen is the owner of C Agriculture.

9 51. Defendant Xu, the Chief Executive Officer and manager of C
10 Agriculture, is an individual residing in New York City, New York.

11 52. Defendant Cai Du (“Du”) is an individual residing in China. Du is an
12 employee of Huamei.

13 53. Defendant Qinghui Zhang (“Zhang”) is an individual residing in China.
14 Zhang is an employee of Huamei.

15 54. Defendant Lucy Wang (“Lucy”), also known as Jingyan Wang, is an
16 individual residing and admitted to practice law in China. Lucy is an employee of
17 Huamei.

18 55. At all times relevant to this Complaint, each of the Defendants acted as
19 the co-conspirator, agent, or servant of each of the other Defendants, and in acting or
20 failing to act in the manner alleged in this Complaint, each Defendant acted as the
21 agent of the other in an overarching conspiracy directed at Plaintiffs, and during the
22 course and scope of such conspiracy, acted with either the permission, consent,
23 approval, or ratification of each of the other Defendants. At all times relevant, each of
24 the Defendants acted in concert with each of the other Defendants towards a common
25 goal in furtherance of the Enterprise’s conspiracy.

26 **IV. RICO JURISDICTION**

27 56. Jurisdiction and venue are also proper under the nationwide jurisdiction
28 provisions of RICO, 18 U.S.C. § 1965. As set forth below, multiple Defendants are

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1 California residents and there is no other district in the United States that would have
2 personal jurisdiction over all of the Defendants. Accordingly, it is in the interest of
3 justice that all Defendants be made parties to this action in this venue under 18 U.S.C.
4 § 1965(b).

5 57. Hume does substantial business with California, and, during the relevant
6 period, had as his principal place of business the City of Ojai, County of Ventura,
7 State of California. Therefore, Hume is subject to personal jurisdiction in this action
8 in California. He is not subject to personal jurisdiction in any other district except
9 New Mexico, where most other Defendants are not subject to personal jurisdiction.

10 58. Huamei USA is a California corporation with a principal place of
11 business in Ojai, California, and is thus subject to personal jurisdiction in this action
12 in California. Wang, who owns and/or controls Huamei USA, resides in China.
13 Huamei USA would not be subject to personal jurisdiction in New Mexico because
14 Huamei USA is not a resident of New Mexico and neither Huamei USA's conduct in
15 nor connections to New Mexico are sufficient to establish minimum contacts there.

16 59. Kwo Lee is a California corporation and is thus subject to personal
17 jurisdiction in this action in California. Kwo Lee, whose headquarters are in St.
18 Louis, Missouri, does business with companies owned, controlled, or managed by Bai,
19 Ye, and Wang. The owner of Kwo Lee, Steven Li, resides in Missouri. QTF and
20 Golden Bird, along with other companies controlled by Bai, have exported fresh garlic
21 through Kwo Lee. Kwo Lee would not be subject to personal jurisdiction in New
22 Mexico because Kwo Lee is not a resident of New Mexico and neither Kwo Lee's
23 conduct in nor connections to New Mexico are sufficient to establish minimum
24 contacts there.

25 60. Li is an individual residing in the City of St. Louis, State of Missouri. Li
26 is the owner of Kwo Lee. Li has longstanding personal and business relationships
27 with Bai, Wang, and Ye. QTF and Golden Bird, along with other companies
28 controlled by Bai, have exported fresh garlic through Li's company Kwo Lee. Li

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1 would not be subject to personal jurisdiction in New Mexico because Li is not a
2 resident of New Mexico and neither Li's conduct in nor connections to New Mexico
3 are sufficient to establish minimum contacts there.

4 61. C Agriculture is, and at all relevant times was, a New York Corporation
5 with its principal place of business in the New York City, State of New York. C
6 Agriculture, which does business in the United States, including New York and
7 California, is a distributor of fresh garlic and other spices and vegetables, including
8 fresh garlic sold to it by members of the Chinese Garlic Association. C Agriculture
9 maintains close ties to the members of the Chinese Garlic Association. C Agriculture
10 would not be subject to personal jurisdiction in New Mexico because C Agriculture is
11 not a resident of New Mexico and neither C Agriculture's conduct in nor connections
12 to New Mexico are sufficient to establish minimum contacts there. Both C
13 Agriculture's owner, Wen, and Chief Executive Officer and manager, Xu, reside in
14 New York. C Agriculture's operations are predominately in New York.

15 62. Wen is an individual residing in New York City, New York. Wen is the
16 owner of C Agriculture and has longstanding business and personal relationships with
17 Bai, Wang and Ye, as well as the companies they control. Wen would not be subject
18 to personal jurisdiction in New Mexico because Wen is not a resident of New Mexico
19 and neither Wen's conduct in nor connections to New Mexico are sufficient to
20 establish minimum contacts there.

21 63. Xu, who is the Chief Executive Officer and manager of C Agriculture, is
22 an individual residing in New York City, New York. Xu would not be subject to
23 personal jurisdiction in New Mexico because Xu is not a resident of New Mexico and
24 neither Xu's conduct in nor connections to New Mexico are sufficient to establish
25 minimum contacts there.

26 64. Bai is an individual residing in China. Bai is the owner of, or otherwise
27 associated with, QTF, QXF, Lianghe, and Golden Bird, all of which have exported (or
28 continue to export) fresh garlic to California. In addition, Bai is the President of

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1 Nature Garden Farm Corporation, which is a California company with its primary
2 place of business in Bakersfield, California. Bai would not be subject to personal
3 jurisdiction in New Mexico because Bai is not a resident of New Mexico and neither
4 Bai’s conduct in nor connections to New Mexico are sufficient to establish minimum
5 contacts there.

6 65. Ye is an individual residing in China. Ye is an owner of, or otherwise
7 associated with, Sunny Import/Export and Hejia, both of which have produced or sold
8 Chinese fresh garlic for export to California. Ye would not be subject to personal
9 jurisdiction in New Mexico because Ye is not a resident of New Mexico and neither
10 Ye’s conduct in nor connections to New Mexico are sufficient to establish minimum
11 contacts there.

12 66. Wang is an individual residing in China. Wang owns and/or controls
13 Huamei China, Huamei USA, and Golden Bird, the latter two of which do business in
14 California. Wang would not be subject to personal jurisdiction in New Mexico
15 because Wang is not a resident of New Mexico and neither Wang’s conduct in nor
16 connections to New Mexico are sufficient to establish minimum contacts there.

17 67. Huamei China is, and at all relevant times was, a Chinese corporation
18 with its principal place of business in Shijiazhuang, Hebei Province, China. Huamei
19 China would not be subject to personal jurisdiction in New Mexico because Huamei
20 China is not a resident of New Mexico and neither Huamei China’s conduct in nor
21 connections to New Mexico are sufficient to establish minimum contacts there.

22 68. Golden Bird is, and at all relevant times was, a Chinese corporation with
23 its principal place of business in China. Golden Bird’s business focuses on the import
24 and export of various products, including garlic and other farm products, agricultural
25 by-products, light industrial products, chemical products, electronic products, machine
26 equipment, construction materials, and automobile products. Golden Bird’s business
27 and operations are primarily in China, but it has exported garlic to California. Golden
28 Bird would not be subject to personal jurisdiction in New Mexico because Golden

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1 Bird is not a resident of New Mexico and neither Golden Bird’s conduct in nor
2 connections to New Mexico are sufficient to establish minimum contacts there. By
3 contrast, a significant amount of the garlic exported to the United States by Golden
4 Bird is shipped to California.

5 69. QTF is, and at all relevant times was, a Chinese corporation with its
6 principal place of business in China. QTF, which is owned and/or controlled by Bai,
7 exports farm products, particularly ginger, garlic, chili, apples, and pears, to
8 California. QTF would not be subject to personal jurisdiction in New Mexico because
9 QTF is not a resident of New Mexico and neither QTF’s conduct in nor connections to
10 New Mexico are sufficient to establish minimum contacts there.

11 70. Hejia is, and at all relevant times was, a Chinese corporation with its
12 principal place of business in China. Hejia exports fresh garlic to California. Hejia
13 would not be subject to personal jurisdiction in New Mexico because Hejia is not a
14 resident of New Mexico and neither Hejia’s conduct in nor connections to New
15 Mexico are sufficient to establish minimum contacts there.

16 71. Lianghe is, and at all relevant times was, a Chinese corporation with its
17 principal place of business in China. Lianghe is a trading company involved in the
18 purchase and export of agricultural products, including garlic. Lianghe would not be
19 subject to personal jurisdiction in New Mexico because Lianghe is not a resident of
20 New Mexico and neither Lianghe’s conduct in nor connections to New Mexico are
21 sufficient to establish minimum contacts there. By contrast, Lianghe has exported
22 garlic to California.

23 72. Chen, an individual residing in China, is Bai’s wife and the owner of
24 Lianghe. Chen conducts business primarily in China but owns companies that have
25 exported garlic to California. Chen would not be subject to personal jurisdiction in
26 New Mexico because Chen is not a resident of New Mexico and neither Chen’s
27 conduct in nor connections to New Mexico are sufficient to establish minimum
28 contacts there.

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1 73. Du is an individual residing in China. Du is an employee of Huamei. Du
2 would not be subject to personal jurisdiction in New Mexico because Du is not a
3 resident of New Mexico and neither Du's conduct in nor connections to New Mexico
4 are sufficient to establish minimum contacts there.

5 74. Zhang is an individual residing in China. Zhang is an employee of
6 Huamei. Zhang would not be subject to personal jurisdiction in New Mexico because
7 Zhang is not a resident of New Mexico and neither Zhang's conduct in nor
8 connections to New Mexico are sufficient to establish minimum contacts there.

9 75. Lucy Wang is an individual residing and admitted to practice law in
10 China. Lucy is an employee of Huamei. Lucy would not be subject to personal
11 jurisdiction in New Mexico because Lucy is not a resident of New Mexico and neither
12 Lucy's conduct in nor connections to New Mexico are sufficient to establish minimum
13 contacts there.

14 76. Although Crawford, Katz, and Montoya all reside in New Mexico and
15 could be sued in that forum, no other Defendant except for Hume is subject to
16 personal jurisdiction in New Mexico.

17 77. Therefore, the interests of justice warrant all of these Defendants being
18 subject to national RICO personal jurisdiction and venue in this Court, especially in
19 light of the fact that they knew the conduct of the Enterprise was intended to cause
20 injury to Plaintiff Harmoni, which is resident in California. This California
21 corporation was one of the two specific targets intended to be injured by the unlawful
22 conduct of the Enterprise.

23 **V. BACKGROUND**

24 **The U.S. Garlic Market**

25 **A. The U.S. Fresh Garlic Market**

26 78. Fresh garlic, as distinguished from dehydrated and seed garlic, is garlic in
27 either whole bulb or peeled clove form.
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1 79. Virtually all fresh garlic grown in the United States is planted in the
2 central agricultural valleys of California. Because of its climate, geography, and
3 infrastructure, California is the only state in which commercial-scale production of
4 fresh garlic in the United States takes place.

5 80. Chinese garlic refers to garlic grown primarily in the Shandong and
6 Henan provinces of China. Chinese fresh garlic is planted and harvested slightly
7 earlier than garlic grown in California and characteristically has a milder taste.

8 81. Total consumption of garlic in the United States is approximately
9 260,000 metric tons (“MT”) each year. The annual average production of domestic
10 garlic is approximately 175,000 MT.

11 82. Chinese garlic accounts for about 25 percent of the total U.S. fresh garlic
12 market, with the volume of garlic imported from China totaling approximately 65,000
13 MT in 2014. Garlic imported from other countries, including Argentina, Mexico, and
14 Spain, accounted for approximately 20,000 MT in 2014.

15 **B. The U.S. Antidumping Regime**

16 83. Among other things, the U.S. antidumping laws are concerned with
17 protecting domestic businesses from unfair and injurious competition resulting from
18 sales of a good by a foreign producer in the United States at a price lower than the
19 good’s fair value.

20 84. In particular, subtitle B of title VII of the Tariff Act of 1930 provides that
21 antidumping duties will be imposed when two conditions are met: (a) the DOC
22 determines that the foreign subject merchandise is being, or is likely to be, sold in the
23 United States at less than fair value, and (b) the U.S. International Trade Commission
24 (“ITC”) determines that a domestic industry has been materially injured or is
25 threatened with material injury by reason of imports of that merchandise. *See* 19
26 U.S.C. § 1673 (1994).

27 85. Interested parties, typically commercial manufacturers, producers, or
28 wholesalers of a given product they believe is being imported into the United States

1 and sold for less than fair value, may file a so-called “antidumping petition” with the
2 DOC and ITC alleging that a domestic industry has been materially injured or
3 threatened with material injury as a result of such conduct. The DOC may also initiate
4 an investigation of its own accord. *See id.* § 1673a(a), (b).

5 86. Upon the filing of an antidumping petition, both the DOC and ITC
6 conduct independent, simultaneous investigations regarding the subject merchandise.
7 The DOC determines whether the subject imported merchandise is being sold or is
8 likely to be sold at less than fair value, while the ITC determines whether an industry
9 in the United States has been materially injured or is threatened with material injury
10 because the subject merchandise is being imported. With the exception of the DOC’s
11 preliminary determination, a negative determination by either the DOC or ITC at any
12 stage will result in a termination of proceedings before both agencies.

13 87. The timelines of these concurrent investigations are specified by statute.

14 88. Within 20 days of the filing of the petition, the DOC will determine
15 whether the antidumping petition alleges the elements necessary for imposition of a
16 duty. Upon an affirmative determination, the DOC will commence the preliminary
17 phase of its investigation. *See id.* § 1673a(c)(2).

18 89. Within 160 days of the petition’s filing, the DOC will make a preliminary
19 determination, based upon the best information available to it at the time, regarding
20 whether there is a reasonable basis to believe or suspect that the imported merchandise
21 is being sold or is likely to be sold at less than fair value. *See id.* § 1673b(c)(1).

22 90. An affirmative preliminary determination by the DOC prompts Customs
23 to require a cash deposit of estimated antidumping duties or an entry bond in the
24 equivalent value for the imported merchandise effective upon the date of publication
25 of the preliminary determination in the Federal Register. If the preliminary
26 determination is negative, the DOC will nevertheless conduct the final phase of its
27 investigation but will not require a cash deposit or bond upon importation of the
28

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1 subject merchandise while the investigation is pending. *See id.* § 1673d(c)(1)(B),
2 (d)(1)-(2).

3 91. Within 75 days of the preliminary determination, the DOC will issue a
4 final determination regarding whether the subject imported merchandise is being sold
5 or is likely to be sold at less than fair value, effective upon the date of publication in
6 the Federal Register. *See id.* § 1673d(a)(1)-(2).

7 92. ITC investigations relating to material injury proceed along a parallel
8 track.

9 93. Within 45 days of the filing of an antidumping petition by an interested
10 party with standing, the ITC conducts the preliminary phase of its investigation and
11 determines whether there is a reasonable indication that the domestic industry has
12 been materially injured or is threatened with material injury by importation of the
13 subject merchandise. During this phase of the investigation, the ITC typically sends
14 cost of production questionnaires to U.S. producers, U.S. importers, and foreign
15 producers, holds a public conference in which parties supporting and opposing the
16 petition present legal and factual arguments in support of their positions, and drafts a
17 staff report analyzing statistical data and other relevant information collected during
18 its investigation. *See id.* § 1673b(a).

19 94. The ITC then issues a preliminary finding, which is published in the
20 Federal Register. If the determination is affirmative, it includes a notice of
21 commencement of the final phase of the investigation. *See id.*

22 95. No more than 280 days after the filing of the petition, the ITC makes a
23 final determination of whether an industry in the United States has been materially
24 injured or is threatened with material injury. This final determination is effective
25 upon the date of publication in the Federal Register. *See id.* § 1673d(c)(3).

26 96. Where both the DOC and ITC issue a final affirmative determination, an
27 antidumping duty order is published and importers are required to post a cash deposit
28 with Customs at the time of entry of the imported merchandise subject to the order in

1 an amount based on the estimated weighted average dumping margin applicable to
2 their foreign supplier, known as the “cash deposit rate.”

3 97. Cash deposits and customs entry bonds are meant to guarantee that
4 Customs will receive the required duties on imports entering the United States.

5 98. An importer subject to an antidumping order may elect to post either a
6 single transaction bond or a continuous-entry bond. A single transaction (or single
7 entry) bond covers the entry of a single shipment of goods. A continuous-entry bond
8 has a term of one year and covers all shipments made during that time period. The
9 bond value for a continuous-entry bond is calculated at 10 percent of the estimated
10 duties, taxes, and fees to be paid over the 12-month period.

11 99. Antidumping orders must be reviewed by the DOC and ITC no later than
12 five years after they are imposed in a process known as a “sunset review.” If, during
13 that process, the agencies find that dumping and material injury to the domestic
14 market are likely to recur, they will issue a so-called “continuation order.” These
15 orders are also subject to the five-year sunset review requirement. *See id.* § 1675(c).

16 100. Upon the request of an interested party, the DOC will also conduct
17 annual administrative reviews in order to determine the actual amount of antidumping
18 duties to be paid on shipments from the preceding year. Such requests must be made
19 during the anniversary month that the order was imposed, and cover the 12-month
20 period of time prior to that anniversary month (referred to as a “period of review” or
21 “POR”). *See* 19 C.F.R. § 351.213(b), (e) (1984). The annual review proceedings are
22 conducted in a manner similar to the original investigation.

23 101. After receiving an appropriate request, the DOC initiates an
24 administrative review by publishing an initiation notice in the Federal Register in the
25 month immediately following the anniversary month.

26 102. The DOC will rescind an administrative review if a party that requested a
27 review withdraws the request within 90 days of the date of publication of notice of
28 initiation. *See id.* § 351.213(d). If no interested party files a review request, the DOC

1 typically does not initiate such a review, and the amount determined to be the
2 estimated duty during the prior POR or original investigation will be retained by the
3 DOC as the appropriate cash deposit rate.

4 103. Domestic interested parties may request that specific companies be
5 included in the review by the DOC. To have standing to submit such a request, the
6 party must be a member of the domestic industry that is protected by the antidumping
7 order. *See* 19 U.S.C. § 1516.

8 104. If an exporter has no shipments during a review but is included in an
9 interested party's review request, it can file a request for rescission of the review
10 based on a certification, signed by a person officially responsible for presentation of
11 the actual information, that there were no shipments during the period. Upon approval
12 by the DOC, the review will be rescinded with respect to the particular exporter, who
13 will retain its deposit rate received from the last period of review. *See* 19 C.F.R. §
14 351.213(d)(3).

15 105. A foreign exporter or producer subject to the order may also submit a
16 request to be included in the annual review, but cannot request a review of exporters
17 or producers other than itself. *See id.* § 351.213(b)(2).

18 106. The purpose of an annual administrative review is to calculate the precise
19 amount by which the foreign value of a given import exceeded the price charged in
20 the United States during the preceding year and to use that figure to assess duties on
21 the import entries made during the review period and to recalibrate the estimated
22 deposit rate for future imports.

23 107. In conducting an administrative review, the DOC will typically evaluate
24 the sales, costs, and pricing practices of only two or three mandatory respondents
25 rather than each individual company named in the initiation notice. These are
26 typically those foreign exporters or producers subject to the order responsible for the
27 largest number of exports to the United States over the prior POR.

28

1 108. In order to determine the estimated duty assessment for the mandatory
2 respondents, the DOC determines the value of the duty needed to equalize the effect
3 of the dumping. The DOC will compare the export price or resale price after the
4 deduction of certain expenses and costs to determine the foreign producer's factory
5 price. The foreign producer's factory price is then compared to the fair value in the
6 home market to determine a constructive value equivalent to the cost of production
7 plus an imputed profit. The difference between this value and the U.S. market price is
8 used to set the antidumping margin.

9 109. However, for countries the DOC has determined to have "non-market"
10 economies ("NME"), such as China, the home market's prices are not used as a basis
11 for comparison. Instead, the value of the cost of production is based on a surrogate
12 value observed in a country with a market economy. The surrogate country must be a
13 significant producer of comparable goods and at a level of development that is
14 comparable to the NME country. The DOC will then compare the factory U.S. price
15 to the constructed price in the NME country, based on the producer's factors of
16 production in the surrogate country.

17 110. An estimated average antidumping margin, calculated by comparing the
18 determined constructive value with the U.S. market price, is then used to determine
19 the appropriate cash deposit rate.

20 111. Should a mandatory respondent refuse to cooperate with the DOC's
21 investigation, the DOC will assign an adverse facts available rate (an "AFA rate") for
22 the company, which for NME countries, such as China, is normally set at a level
23 equivalent to the country-wide antidumping rate assessed as part of the initial order.
24 The DOC has discretion to select the next largest company by export quantity as a
25 replacement mandatory respondent.

26 112. Once the DOC determines the cash deposit rate for each mandatory
27 respondent company, the DOC calculates a weighted-average margin of these
28 individual rates (which average excludes margins that are zero, *de minimis* (lower than

1 0.5%), or based entirely on AFA) to determine the cash deposit rate that is applicable
2 to all other companies subject to the administrative review but not selected for
3 individual examination.

4 113. However, for NME countries, such as China, the DOC presumes that all
5 companies within the NME country are subject to governmental control and should be
6 assigned a country-wide antidumping duty rate unless an exporter demonstrates the
7 absence of both *de jure* and *de facto* governmental control over its export activities. A
8 company in a NME country must therefore demonstrate its independence by filing a
9 separate rate application (“SRA”) or separate rate certification (“SRC”) to be eligible
10 for the rate determined by the weighted-average margin, upon approval by the DOC.

11 114. In addition to the annual review proceedings, foreign exporters or
12 producers who entered the U.S. market only after an antidumping order was issued
13 and have no direct or indirect affiliation with an existing exporter or producer (and
14 thus did not export the goods in question during the investigation which led to the
15 initial order or during the periods of subsequent annual reviews) may request what is
16 known as a “new shipper review.” A new shipper must apply for review with the
17 DOC within one year of its first shipment of the goods.

18 115. Prior to completion of this review, any exports made by the new shipper
19 are subject to cash deposits at the country-wide rate. Accordingly, a new shipper will
20 typically hold off on shipping large quantities of goods in bulk until the DOC wraps
21 up its review – approximately 18 months following its initiation.

22 116. Further, the cash deposit rate determined in connection with a new
23 shipper review applies only to merchandise both exported by the new shipper and
24 produced by the company that supplied the new shipper during the new shipper
25 review. In other words, an exporter receiving a rate as part of a new shipper review is
26 only permitted to export garlic provided by those producers that were identified by the
27 exporter as part of its review. This exporter-producer restriction is called a
28 “combination rate.”

1 117. For companies that are not “new shippers” and thus either obtained
2 individually calculated rates or weighted average separate rates during the DOC’s
3 annual reviews, there exists no exporter-producer restriction. This means that the rate
4 such a company is assessed during the review process applies to subject merchandise
5 exported by the company at the time of entry, regardless of the identities of the
6 producer(s) that supplied the exporter. Because no particular producer-exporter
7 combination is required, the rate applied to non-new shippers is called a “non-
8 combination rate.”

9 **C. Antidumping Order for Fresh Garlic from China**

10 118. On July 11, 1994, the DOC published its preliminary determination
11 regarding fresh garlic from China and found the existence of “critical circumstances”
12 for all imports of fresh garlic from China. *See Notice of Preliminary Determination of*
13 *Sales at Less Than Fair Value: Fresh Garlic From the People's Republic of China*, 59
14 Fed. Reg. 35,310 (July 11, 1994). As a result of this finding, importers were required
15 to deposit antidumping duties for entries of fresh garlic into the United States on or
16 after April 12, 1994. In particular, the DOC determined that Chinese exporters should
17 be subject to a country-wide antidumping rate of 376%.

18 119. Following the ITC’s final affirmative injury determination, on November
19 16, 1994, the DOC published the Chinese Garlic Order. *See Antidumping Duty*
20 *Order: Fresh Garlic from the People’s Republic of China*, 59 Fed. Reg. 59,209 (Nov.
21 16, 1994). Upon publication of the Order, U.S. importers of covered garlic were
22 required to continue paying cash deposits to Customs at a 376% rate.

23 120. The original *ad valorem* country-wide antidumping duty rate of 376%
24 was subsequently converted by the DOC to a per kilogram rate of \$4.71 per kilogram
25 of fresh garlic.

26 121. A typical 40-foot container of fresh garlic exported from China contains
27 26,000 kilograms, or 13 MTs, of garlic. At the country-wide rate of \$4.71 per
28 kilogram, each such container would be subject to a cash deposit or bond of

1 approximately \$122,000 at the point of entry. A ton of fresh garlic typically sells for
2 about \$1,900, or about \$2 per kilogram. A cash deposit rate imposed at the country-
3 wide rate – roughly 2.5 times what the garlic can fetch on the market – thus
4 effectively serves as a commercial bar to the importation of fresh garlic.

5 122. In recent years, Customs has had significant difficulty collecting unpaid
6 antidumping duties on imports of fresh garlic from China. As of October 2012, more
7 than \$500 million was owed to the U.S. government for uncollected antidumping
8 duties relating solely to imports of fresh garlic from China.

9 123. The vast majority of unpaid duties are owed by importers shipping in
10 fresh garlic from companies which received relatively low rates during new shipper
11 reviews but were later found to have violated the terms of those “new shipper”
12 designations thereafter – usually by shipping garlic produced by companies formerly
13 subject to the country-wide or similarly high rate. By the time the DOC completes its
14 subsequent review and Customs attempts to collect the duties owed, the importers
15 responsible have either ceased doing business altogether or simply lack the assets to
16 pay.

17 **D. Zhengzhou Harmoni is the Sole Chinese Exporter with a Zero Cash**
18 **Deposit Rate**

19 124. In 2002, Zhengzhou Harmoni requested a new shipper review for its
20 shipment of garlic to the United States during November 1, 2001 through October 31,
21 2002, a period of review concurrent with POR 8 (*i.e.*, the eighth year after the initial
22 order was entered) and received a zero duty combination rate. *See Fresh Garlic From*
23 *the People’s Republic of China: Final Results of Antidumping Duty Administrative*
24 *Review and New Shipper Reviews*, 69 Fed. Reg. 33,626 (June 16, 2004). As a
25 combination rate, the new shipper rate was only applicable to fresh garlic both
26 produced and shipped by Zhengzhou Harmoni.

27 125. The DOC calculated a zero cash deposit rate for Zhengzhou Harmoni in
28 the next two consecutive administrative reviews, POR 9 and 10. As opposed to the

1 initial cash deposit rate obtained in the New Shipper Review, the zero cash deposit
2 rate obtained in POR 9 and 10 was calculated as a non-combination rate and thus
3 applied to all of Zhengzhou Harmoni's shipments of garlic to the United States
4 irrespective of the identity of the producer. *See Fresh Garlic from the People's*
5 *Republic of China: Final Results and Partial Rescission of Antidumping Duty*
6 *Administrative Review and Final Results of New Shipper Reviews*, 71 Fed. Reg.
7 26,329 (May 6, 2006); *Fresh Garlic from the People's Republic of China: Notice of*
8 *Court Decision Not in Harmony with Final Results of Administrative Review and*
9 *Notice of Amended Final Results of Administrative Review*, 78 Fed. Reg. 44,928 (July
10 25, 2013).

11 126. Zhengzhou Harmoni has not been the subject of an administrative review
12 since POR 10. As such, Zhengzhou Harmoni has maintained its zero cash deposit rate
13 to date. Zhengzhou Harmoni is currently the sole Chinese exporter with a zero cash
14 deposit rate and one of only four Chinese companies with rates significantly lower
15 than the \$4.71 country-wide rate.

16 127. Because of Zhengzhou Harmoni's and Harmoni's compliance with both
17 U.S. and Chinese laws and regulations, as well as their adherence to industry-leading
18 safety and quality standards, garlic sold by Harmoni is typically the highest priced
19 Chinese garlic in the U.S. market. Harmoni's fresh garlic currently sells for
20 approximately five dollars per kilogram (equivalent to \$68-70 per 30 pound package)
21 in the U.S. to distributors and end-consumers. By contrast, Chinese garlic imported
22 and sold by Harmoni's competitors typically sells for an average of fifteen to
23 seventeen percent less, even after antidumping deposits.

24 128. Moreover, Harmoni has invested significant time, money and effort
25 producing, promoting and advertising the high quality of its products through third
26 party audits, customer audits, field quality assessment audits, internet advertising and
27 "word of mouth" referrals. Plaintiffs have also invested significant time, money and
28 effort promoting Harmoni's operations, products, and honest business practices and

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1 ensuring that the company guarantees the safety and quality of its products and
2 complies with all applicable laws and administrative codes.

3 129. Accordingly, Plaintiffs have established a reputation amongst their
4 customers and the public at large for maintaining high operational standards and for
5 strict compliance with U.S. antidumping laws. Plaintiffs' hard-won business
6 reputation is of great value to them and is crucial to generating and keeping their
7 customers. That reputation has been significantly damaged by the unlawful acts of
8 Defendants in furtherance of the Enterprise.

9 **E. China's Legal Framework for Inspecting and Certifying Food Exports**

10 130. All exporters of Chinese garlic, including Zhengzhou Harmoni, QTF,
11 Golden Bird, Hejia, and QXF, are subject to certain Chinese regulations governing the
12 exportation of agricultural food products. In order to ship fresh garlic to the United
13 States, these companies must first demonstrate compliance with those regulations.

14 131. Specifically, the Law of the People's Republic of China on the Entry and
15 Exit Animal and Plant Quarantine ("EEAPQ Law") establishes the requirements for
16 the quarantine and inspection of animal and plant products that are imported into, or
17 exported from, China. The Agency tasked with enforcing the EEAPQ Law has
18 established, in total, 35 Entry-Exit Inspection and Quarantine Bureaus ("CIQ") in
19 China to perform inspections of all imports and exports.

20 132. CIQ Bureaus issue phytosanitary certificates, which are required under
21 Chinese law for each unique export shipment of agricultural food product, including
22 fresh garlic. Each certificate contains, among other things, a code issued by CIQ that
23 is unique to the producer and identifies the facility at which the goods were produced
24 and packed. The certificates indicate that the goods were inspected by a Chinese
25 authority and make it possible to trace exports to the facility at which they were
26 produced.

27 133. Additionally, EEAPQ Law requires that phytosanitary certificates be
28 issued by the CIQ Bureau that is geographically closest to the site of production.

1 **VI. THE UNLAWFUL ENTERPRISE AND ITS CONSPIRACY AGAINST**
2 **PLAINTIFFS**

3 **A. The Enterprise**

4 134. At all times relevant to this complaint, Defendants and co-conspirators
5 acted as an “Enterprise” within the meaning of 18 U.S.C. § 1961(4).

6 135. The Enterprise in question exists for the purpose of illegally obtaining for
7 Defendants and their co-conspirators a greater share of the Chinese fresh garlic market
8 in the United States through fraudulent attacks upon the reputation and business
9 interests of Plaintiffs, fraudulent avoidance of duties that should be paid by
10 Defendants, at the competitive expense of Plaintiffs, the infliction of administrative
11 and other costs upon Plaintiffs without legal justification, and various attempts to
12 extort direct cash payments from Plaintiffs.

13 136. Defendants have conspired to cause Plaintiffs economic injury through
14 their unlawful acts in furtherance of the Enterprise, lessening Plaintiffs’ ability to
15 compete against the Chinese Garlic Association and greatly reducing their profits.

16 137. Each of the members of this Enterprise has knowingly and intentionally
17 acted in furtherance of Defendants’ scheme.

18 138. At the center of this Enterprise are Bai, Ye, and Wang, Chinese
19 businessmen who own or control a number of companies that export fresh garlic and
20 are thus subject to the Chinese Garlic Order.

21 139. Bai, Ye, and Wang formed a relationship through their contacts in the
22 Chinese garlic industry.

23 140. Bai owns and/or controls a number of companies involved in the export
24 and production of fresh garlic in China. These companies, including but not limited to
25 QTF, QXF, and Lianghe (which is nominally owned by Bai’s wife, Chen), are part of
26 a group of garlic exporters informally referred to as the “Chinese Garlic Association.”
27 Bai also has financial interests in Golden Bird, another exporter of fresh garlic
28 established and controlled by Wang.

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1 141. Ye owns and/or controls a number of companies involved in the export
2 and production of fresh garlic in China. These companies, including Hejia, Huameng,
3 and Sunny Import/Export, are also part of the Chinese Garlic Association.

4 142. Wang owns and/or controls Golden Bird, another exporter affiliated with
5 the Chinese Garlic Association.

6 143. In addition, Wang also owns Huamei, a consulting company that,
7 together with lawyers and agents based in the United States, including Hume &
8 Associates, works on behalf of members of the Chinese Garlic Association (and other
9 Chinese companies) to achieve the Enterprise's unlawful objectives.

10 144. Specifically, Huamei, through Wang and its other employees, Du, Zhang,
11 and Lucy Wang, acts as an intermediary between members of the Chinese Garlic
12 Association and Hume & Associates. Hume & Associates, which consists of
13 founding member Hume and former associate Montoya, work together with Huamei
14 to represent the Chinese Garlic Association companies before the DOC, Customs, and
15 the CIT and to further the Enterprise's overall scheme against Plaintiffs.

16 145. QTF, QXF, Lianghe, Golden Bird, and Huameng have all been
17 represented by Hume & Associates in DOC, Customs, and/or CIT proceedings related
18 to the Chinese Garlic Order.

19 146. The Chinese Garlic Association imports garlic through various importers
20 in the United States.

21 147. In particular, QTF and Golden Bird, along with other companies
22 controlled by Bai, have exported fresh garlic through Kwo Lee. In or around June
23 2014, Wang approached Li, Kwo Lee's owner, to act as an importer of QTF's garlic.

24 148. C Agriculture is another distributor of garlic in the United States working
25 in conjunction with the Chinese Garlic Association.

26 149. At times relevant to this Complaint, C Agriculture falsely entered garlic
27 as allegedly exported by Golden Bird by misrepresenting the identities of the actual
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1 sellers, thereby knowingly avoiding the payment of cash deposit rates applicable to
2 the actual sellers.

3 150. At times relevant to this Complaint, C Agriculture functioned as an
4 importer, a distributor, and reseller of garlic, and knowingly agreed to purchase garlic
5 produced by a Chinese seller that would otherwise be subject to high antidumping
6 rates, but allegedly exported by Golden Bird, and falsely declared the garlic as Golden
7 Bird product and as having been sold to C Agriculture by Golden Bird, thereby
8 avoiding payment of the higher amount of antidumping duty deposits.

9 151. Indeed, a Datamyne¹ query indicates C Agriculture acted as an importer
10 and/or ultimately purchased and received 33 separate containers—or 891,000
11 kilograms—of garlic from Golden Bird between 2009 and 2014. As explained below,
12 C Agriculture conspired with Bai and Wang to fraudulently enter the high-rate
13 exporter’s garlic at Golden Bird’s zero or near-zero duty rate by falsely reporting
14 Golden Bird as the actual exporter of record for the entry, and distributed a material
15 quantity of garlic in furtherance of the Enterprise’s scheme to funnel garlic from
16 producers subject to AFA rate into the United States at Golden Bird’s zero or near-
17 zero duty rate.

18 152. C Agriculture is managed by and acts through Wen and Xu, both of
19 whom are close business associates of Bai and Ye in a number of garlic-related
20 ventures.

21 153. In 2014, Hume – funded by and for the benefit of Bai, Ye, Wang, and Li
22 – set out to identify small U.S.-based growers of garlic who would agree to initiate a
23 costly and burdensome administrative review of Zhengzhou Harmoni by the DOC, in
24 order to damage the business of Plaintiffs through fraudulent assertions and help
25 Enterprise members fraudulently obtain more favorable duty rates, and in the hope of
26 coercing Harmoni to pay an extortionate fee to the Enterprise in exchange for the
27 withdrawal of that request.

28 ¹ Datamyne is a public statistics service that offers access to U.S. import data collected directly from bills of lading filed by ocean carries with Customs.

1 154. Specifically, Hume first recruited Crawford to file an administrative
2 review request of Zhengzhou Harmoni in 2014. That request was withdrawn at the
3 direction of Enterprise member Bai, but the following year, Hume re-recruited
4 Crawford and also persuaded Katz to join Crawford in filing an administrative review
5 request against Plaintiffs as a front, acting under false pretenses for the Enterprise
6 members who imported Chinese garlic. Hume agreed to provide legal services to
7 Crawford and Katz in connection with the review request for free because other
8 Enterprise members were paying his fees and those of Montoya.

9 155. In agreeing to serve as a front for Hume's other clients and thus joining
10 the Enterprise, Crawford and Katz, hobby farmers whose goods do not compete with
11 Zhengzhou Harmoni's garlic and who thus have no economic interest in the outcome
12 of such a review (other than any monies or other consideration they are receiving from
13 other members of the Enterprise), are knowingly and intentionally acting as cats' paws
14 for members of the Chinese Garlic Association who do not have standing to request
15 initiation of such a review.

16 156. During the proceedings before the DOC, Hume, Montoya, Katz and
17 Crawford made false assertions to the DOC to conceal their connection to the
18 members of the Chinese Garlic Association and the overall Enterprise.

19 **B. Golden Bird Fraudulently Maintains a Favorable Dumping Duty Rate**
20 **Despite Secretly Importing Garlic Produced by Other Enterprise Members**
21 **at Less Than Fair Value.**

22 157. In 2006, Golden Bird, a company founded and controlled by Wang,
23 began exporting fresh garlic produced by Cangshan County Hongyang Vegetable &
24 Foods ("Cangshan") to the United States.

25 158. Golden Bird did not at that time, and still does not, produce its own fresh
26 garlic.

27 159. In 2007, Golden Bird requested a new shipper review. Its first shipment
28 of garlic, which was produced by Cangshan and entered the United States during
2006–2007 (concurrent with POR 13), received a combination cash deposit rate of

1 13.83%. *See Fresh Garlic From the People’s Republic of China: Final Results of*
2 *Antidumping Duty Administrative Review and New Shipper Reviews*, 73 Fed. Reg.
3 56,550 (Sept. 29, 2008). The rate applied solely to garlic exported by Golden Bird
4 and produced by Cangshan. Golden Bird was represented by Jasmine Zhao-King
5 (“Zhao-King”), also known as Li Jasmine Zhao-King, and her law firm, Trade Bridge,
6 in connection with this review.

7 160. During POR 14 and 15 (covering the time period of November 2007
8 through October 2009), Golden Bird did not export any fresh garlic into the United
9 States and therefore was not subject to any review by the DOC.

10 161. In 2010, Golden Bird recommenced exporting fresh garlic to the United
11 States. For the first year, it exported garlic pursuant to the 13.83% rate it had earned
12 as a new shipper in POR 13.

13 162. Over the next two years, it was selected as a mandatory respondent and
14 obtained favorable rates of 14 cents per kilogram and zero cents per kilogram for the
15 2009-2010 (POR 16) and 2010-2011 (POR 17) time periods, respectively. *See Fresh*
16 *Garlic From the People’s Republic of China: Final Results of the 2009-2010*
17 *Administrative Review of the Antidumping Duty Order*, 77 Fed. Reg. 34,346 (June 11,
18 2012); *see Fresh Garlic From the People’s Republic of China: Final Results of*
19 *Antidumping Duty Administrative Review*, 78 Fed. Reg. 36,168 (June 17, 2013).
20 Golden Bird was jointly represented by Zhao-King and Hume in connection with
21 these reviews.

22 163. The following year (POR 18), Golden Bird was once again selected to be
23 a mandatory respondent.

24 164. On September 16, 2013, Zhao-King withdrew suddenly as Golden Bird’s
25 representative in connection with the POR 18 review. *See 18th Administrative Review*
26 *of the Antidumping Order on Fresh Garlic from the PRC – Withdrawal of*
27 *Representation, Sept. 16, 2013.*
28

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1 165. Zhao-King was replaced as Golden Bird’s counsel by Hume, who in turn
2 was assisted by Huamei in connection with the review. This was the start of Golden
3 Bird’s participation in the unlawful Enterprise directed at Plaintiffs.

4 166. During the POR 18 review, Hume, on Golden Bird’s behalf, made a
5 number of materially false statements to the DOC designed to maintain Golden Bird’s
6 prior favorable rate so that it could be secretly used to funnel imports from other
7 members of the Enterprise with much higher dumping rates.

8 167. These fraudulent statements – made on, *inter alia*, May 10, 2013, May
9 17, 2013, May 20, 2013 and May 23, 2014 – were contained in submissions filed via
10 the DOC’s “IA Access” electronic filing system and sent to the DOC via first-class
11 mail.

12 168. In particular, Golden Bird falsely stated that all of its exports of fresh
13 garlic to the United States were still being produced by Cangshan and provided false
14 information in support of this claim.

15 169. Upon request by the DOC, Golden Bird was unable to reconcile material
16 discrepancies between Chinese and U.S. customs data regarding the quantity and
17 provenance of garlic exported to and sold in the United States by Golden Bird and its
18 affiliates during the period of time covered by POR 18 (November 2011 through
19 October 2012).

20 170. On June 23, 2014, in its final determination, the DOC concluded that
21 Golden Bird had falsified records and knowingly provided inaccurate information in
22 its submissions for the POR 18 administrative review. Specifically, the DOC stated,
23 “Golden Bird’s acknowledgement that it willingly reported false information to its
24 own government bolstered our concern that it has provided inaccurate U.S. sales
25 information to the [DOC].”

26 171. More specifically, the DOC found that the Chinese declaration forms
27 purportedly reflecting the amount of Golden Bird’s exports could not be reconciled
28 with U.S. import data, which reflected a much larger amount of garlic imported into

1 the United States, identified as having been exported by Golden Bird and produced by
2 Cangshan. The DOC also concluded that Golden Bird – through its counsel, Hume –
3 had provided false information to the DOC in an effort to mislead it as to the identity
4 of the producers whose garlic Golden Bird had funneled into the United States under
5 its own favorable antidumping rate. *Id.*

6 172. Accordingly, the DOC directed Customs to assess an AFA rate of \$4.71
7 per kilogram on POR 18 imports of fresh garlic exported by Golden Bird and to
8 require deposits of estimated dumping duties at that rate for import entries made on or
9 after the date of publication of the final results. *See Fresh Garlic From the People’s*
10 *Republic of China: Final Results and Partial Rescission of the 18th Antidumping*
11 *Duty Administrative Review*, 2011-2012, 79 Fed. Reg. 36,721 (June 30, 2014).

12 173. The discrepancy between Golden Bird’s Chinese declarations and its
13 U.S. sales data stemmed from Golden Bird’s undisclosed importation of garlic
14 produced and packed by Chinese fresh garlic producers other than Cangshan, the sole
15 producer identified by Golden Bird as a supplier. These other producers, who are
16 members of the Enterprise, could not realistically export directly to the United States
17 because they had been assigned much higher dumping rates, including the \$4.71 AFA
18 rate.

19 **2. C Agriculture Makes Fraudulent Statements to Customs in Order to**
20 **Secretly “Funnel” Garlic from Other Enterprise Members into the**
21 **United States at a More Favorable Rate So That They Can Obtain**
Business at the Expense of Plaintiffs.

22 174. In order to enable other Enterprise members to have their Chinese garlic
23 imported into the United States without depositing high or country-wide duties
24 applicable to their products, Golden Bird utilized the services of, among others, C
25 Agriculture during the period of 2009 through 2014.

26 175. Under this plot, which is referred to as the “funneling” or “duty evasion”
27 scheme, importers, including C Agriculture, agreed to enter garlic declared as
28 purchased from Golden Bird, and presented fraudulent shipping documents to
Customs that identified Golden Bird as the exporter, thus allowing the importer to

1 post with Customs no, or relatively small, cash deposits instead of the much higher
2 cash deposit that would be posted at the high or country-wide exporters' deposit rate
3 had the actual exporter and producer of the garlic been disclosed. In fact, some of the
4 fraudulently entered Golden Bird garlic was not actually purchased by the importers,
5 but was purchased by established distributors (typically U.S. garlic customers of a
6 high or country-wide rate exporter) after the importers cleared the goods through
7 Customs.

8 176. In exchange, these distributors, the actual purchasers of the garlic, would
9 pay to Golden Bird, and thus to Bai and Wang, hefty commissions that went
10 undisclosed to the DOC and Customs. Importers, including C Agriculture, either
11 functioned merely as Customs clearance agents, sharing in the commissions Bai and
12 Wang collected from the actual purchasers, or purchased and took title of the
13 containers cleared through Customs and then paid Bai and Wang hefty commissions.

14 177. The mechanics of the scheme, which was overseen and directed by Bai
15 and Wang, were straightforward. First, U.S. garlic distributors agreed to purchase
16 garlic from an exporter normally subject to high or country-wide rates, and agreed to
17 pay Bai and Wang commissions on a container-specific basis for these shipments to
18 be entered into the United States as exported by Golden Bird.

19 178. C Agriculture and other U.S. importers affiliated with the Enterprise
20 agreed to submit fraudulent shipping documents, including invoices, packing lists, and
21 bills of lading records, to Customs purporting to show that they had purchased and
22 received this garlic from Golden Bird, when in reality the garlic in question came
23 from other producers who were subject to the high or country-wide rate and was
24 delivered directly to different garlic distributors in the United States (some, but not all,
25 of which were ultimately delivered to C Agriculture). In many cases, C Agriculture
26 neither paid for nor received large amounts of the garlic that it informed U.S. Customs
27 it had purchased. These fraudulent shipping records were submitted by C Agriculture
28 and others to Customs electronically, typically through a customs broker working on

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1 their behalf. In exchange for this Customs clearance service, C Agriculture and other
2 complicit importers or distributors would receive a share of the commission that Bai
3 and Wang collected from the actual U.S. garlic distributor.

4 179. In the cases where C Agriculture ultimately purchased and received the
5 garlic, it would pay Bai and Wang a commission for using Golden Bird's rate for
6 entering garlic it actually purchased from exporters subject to high and country-wide
7 rates, the identity of whom was undisclosed to Customs.

8 180. Accordingly, the actual chain of garlic shipments and payments
9 undertaken in connection with the funneling scheme differed greatly from what was
10 being reported to the U.S. authorities through the mail and wires by Golden Bird, C
11 Agriculture and other importers and distributors.

12 181. Under this funneling scheme, Bai and Wang, with the assistance of C
13 Agriculture and others, were unlawfully selling Golden Bird's favorable dumping
14 duty rate to other Enterprise members for the purpose of circumventing the anti-
15 dumping deposit rate that would have ordinarily been applicable, enabling those
16 members to take away market share from Plaintiffs.

17 182. This fraudulent scheme, in furtherance of the Enterprise, directly and
18 proximately damaged Plaintiffs. It decreased Harmoni's U.S. market share, as it
19 resulted in the wrongful increased importation of Chinese garlic by Enterprise
20 members into the United States, and its sale to consumers, at prices that were
21 significantly lower than what they would have been had the Enterprise, including
22 Golden Bird, C Agriculture, and Hume, not worked together to engage in criminal acts
23 which enabled Bai and Chinese garlic producers subject to high dumping rates to
24 circumvent the AFA rate imposed by the DOC.

25 183. As a result of this fraudulent scheme, Plaintiffs incurred millions of
26 dollars in damages due to lost sales. The resulting lost business to Plaintiffs was the
27 direct and proximate result of the fraudulent behavior of the Enterprise, including
28 Golden Bird, C Agriculture, Hume and others.

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1 **C. QTF Replaces Golden Bird and Continues the Enterprises’ Scheme to**
2 **Make Fraudulent Submissions To Secure Improperly Low Antidumping**
3 **Rates Designed to Injure Plaintiffs.**

4 **1. QTF Submits False Documentation, Including Forgeries of Official**
5 **Chinese Government Documents, to the DOC, Customs, and the CIT**
6 **in Order to Gain a Larger Share of the U.S. Market and Damage**
7 **Plaintiffs.**

8 184. After Golden Bird received the AFA rate in POR 19 and 20, it was
9 replaced by two other companies controlled by Bai, QTF and Jining Yongjia Trade
10 Co., Ltd. (“Yongjia”), exporters of fresh garlic which in 2008 had achieved new
11 shipper rates of 32.78%, equivalent to \$0.35 per kilogram (QTF), and 18.88%,
12 equivalent to \$0.24 per kilogram (Yongjia).

13 185. QTF had first applied for a new shipper review in 2007 – the same year
14 as Golden Bird – and received a \$0.35 per kilogram combination rate for that year
15 (POR 13). *See Fresh Garlic From the People’s Republic of China: Final Results of*
16 *and Rescission, in Part, of Twelfth New Shipper Reviews*, 73 Fed. Reg. 56,550 (Sept.
17 29, 2008). QTF was also represented by Zhao-King in connection with this review.

18 186. From POR 14 through POR 16, QTF was represented by Zhao-King and
19 filed no shipment certificates with the DOC, thus maintaining its \$0.35 per kilogram
20 rate.

21 187. From POR 17 through 19, QTF was still not subject to review pursuant to
22 its claims that it did not ship fresh garlic to the United States during the relevant
23 periods, based upon submissions certified as accurate by Zhao Zhenqing (“Zhao”), the
24 alleged manager of QTF, and further certified as accurate by QTF’s counsel, Zhao-
25 King (POR 17-18) and Hume (POR 19).

26 188. As a result of those certifications, QTF maintained its original \$0.35 per
27 kilogram combination rate through POR 20 (2013-14), when – upon the DOC’s
28 imposition of the punitive AFA rate of \$4.71/kilogram on Golden Bird – it was
revived by Bai and once again began shipping fresh garlic.

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1 189. As a “new shipper” subject to a combination rate, QTF was and remains
2 restricted to shipments of only its own production of fresh garlic. Any shipments it
3 makes of garlic produced and packed by other producers is subject to the country-
4 wide rate of \$4.71 per kilogram.

5 190. Nevertheless, Bai, in consultation with Wang and Ye, caused QTF to take
6 over Golden Bird’s role by fraudulently and illegally shipping large volumes of other
7 producers’ fresh garlic under the favorable rate it had obtained as a “new shipper”
8 some six years earlier.

9 191. Indeed, despite the fact that Golden Bird has not exported any garlic to
10 the United States since 2014, fresh garlic contained in bags bearing the Golden Bird
11 label continues to be shipped by QTF and offered for sale in U.S. markets.

12 192. QTF, through Hume, its agent in the United States, also adopted Golden
13 Bird’s pattern of submitting fraudulent documents to government officials and
14 agencies.

15 193. Specifically, for the period from November 11, 2013 through October 31,
16 2014, in order to assist its importer, Kwo Lee, in qualifying for QTF’s favorable rate
17 of \$0.35 per kilogram, QTF provided incomplete Chinese government phytosanitary
18 certificates to Customs in an attempt to convince that agency that all garlic shipped by
19 QTF was also produced by QTF.

20 194. However, because QTF was ultimately unable to substantiate this claim,
21 on August 19, 2014, Customs required Kwo Lee to submit a single transaction bond at
22 a face value sufficient to cover the applicable dumping rate of \$4.71 per kilogram for
23 its entries, because, in accordance with DOC instructions, that rate would apply to
24 QTF exports of garlic produced and packed by any company other than QTF itself.

25 195. Less than a month later, on September 16, 2014, Kwo Lee filed suit with
26 the CIT challenging this single transaction bond requirement and seeking a temporary
27 restraining order preventing Customs from requiring such a bond. Kwo Lee was
28 represented by Hume in connection with the lawsuit.

1 196. In its motion for a temporary restraining order, Kwo Lee claimed that it
2 was customary among Chinese agricultural companies (such as producers of fresh
3 garlic) to submit incomplete phytosanitary certificates, which are documents required
4 in conjunction with the exportation of agricultural goods, to Chinese regulators. *See*
5 Plaintiff's Application for a Temporary Restraining Order and Motion for a
6 Preliminary Injunction, *Kwo Lee v. United States*, 1:14-cv-00212-DCP (Dkt. 7) (Sept.
7 16, 2014).

8 197. As purported evidence for this claim, and in an attempt to damage
9 Plaintiffs' reputation, imperil its favorable zero antidumping rate and cause Customs
10 to require Harmoni to post a single transaction bond, Kwo Lee falsely averred that
11 Zhengzhou Harmoni had a practice of submitting such incomplete certificates to the
12 Chinese government.²

13 198. On October 2, 2014, in further support of its lawsuit against Customs,
14 Kwo Lee filed with the CIT an affidavit executed by Zhao, an individual purporting to
15 be the Manager of QTF. *See* Declaration of Zhao Zhenqing, *Kwo Lee v. United*
16 *States*, 1:14-cv-00212-DCP (Dkt. 31) (Oct. 2, 2014).

17 199. In his affidavit, Zhao averred that it was the practice of some of the
18 government officials in China to leave the Additional Declaration column of the
19 phytosanitary certificates blank, and that submitting incomplete phytosanitary
20 certificates was a normal practice of other Chinese companies, including Zhengzhou
21 Harmoni. In order to "substantiate" these false allegations, Zhao's affidavit attached a
22
23

24 ² At the same time Kwo Lee filed the motion for a TRO against the DOC, Hume also filed a motion
25 for a TRO on behalf of International Fresh Trade Corp. on September 16, 2014, arguing that
26 Customs was wrongfully requiring it to post a single transaction bond for the fresh garlic exported
27 by Yongjia and produced by Shanfu II. In support of its motion, Hume filed the same fraudulent
28 Zhengzhou Harmoni phytosanitary certificates and declaration of the alleged manager of QTF, Zhao,
as submitted in the Kwo Lee proceedings. Hume voluntarily dismissed the case and these
documents were later marked by the court clerk as misfiled. Hume filed a stipulation of dismissal on
January 12, 2015. However, the fraudulent certificates and false statements in the misfiled
document remained part of the public record until CIT removed the record in early January
2016. *See* Declaration of Zhao Zhenqing, *Int'l Fresh Trade Corp. v. United States*, 1:14-cv-00213-
DCP (Dkt. 28) (Sept. 30, 2014).

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1 number of forged documents it identified as valid Zhengzhou Harmoni phytosanitary
2 certificates.

3 200. The TRO, fraudulent phytosanitary certificates, and Zhao's affidavit were
4 filed by Hume on behalf of Kwo Lee via the CIT's case management and electronic
5 court filing system.

6 201. On the basis of the foregoing documentation, the motion for a TRO was
7 granted on October 16, 2014. This allowed QTF to continue to export fresh garlic
8 under its prior 35 cent cash deposit rate, without the requirement of a single
9 transaction bond. During the time period from October 2014 to June 2015, QTF
10 exported approximately 29 containers of fresh garlic to the United States, with a total
11 value of approximately \$19.2 million.

12 202. After learning of Zhao's submission, in a complaint filed on January 3,
13 2015, Zhengzhou Harmoni brought the forged phytosanitary certificates and Zhao's
14 declaration to the attention of the Shandong CIQ, the Chinese government agency
15 charged with inspecting all shipments of agricultural products as a prerequisite to
16 obtaining clearance from Chinese Customs to export the fresh garlic to the United
17 States.

18 203. On March 6, 2015, the Shandong CIQ issued its preliminary findings in
19 the matter, determining that the phytosanitary certificates filed by Kwo Lee did not
20 conform to the certificates issued by CIQ. As a result, CIQ initiated a full
21 investigation and temporarily suspended QTF's export privileges.

22 204. CIQ issued its final determination on May 20, 2015, concluding that the
23 phytosanitary certificates attached to Zhao's affidavit and submitted to the CIT by
24 Kwo Lee do not conform with those issued by the CIQ.

25 205. The CIQ investigators also concluded that Zhao held no managerial
26 position at QTF during the relevant periods.

27 206. According to Zhao's statements to Chinese police officers, he never
28 signed any certifications in connection with the Kwo Lee lawsuit or any antidumping

1 review. In fact, Zhao stated that he had no knowledge of the lawsuit, U.S.
2 antidumping proceedings involving QTF, or any of the facts set forth in his purported
3 2014 affidavit.

4 207. Indeed, a criminal investigation in China confirmed that Zhao was not a
5 manager at QTF and in fact held no position or title at the company. In addition, it
6 was determined that Zhao's signature, as given to the police, did not match those on
7 any of the documents submitted to the DOC and the CIT in his name, including a
8 number of submissions filed by Hume as counsel to QTF in the POR 19 through POR
9 21 administrative reviews before the DOC.

10 208. During its investigation, the CIQ also discovered proprietary Golden Bird
11 documents and financial information on the hard drives of computers owned by QTF,
12 dealing with various financial transactions between the two companies, and providing
13 further evidence of the Enterprise connecting Bai, Wang, and members of the Chinese
14 Garlic Association.

15 209. On June 12, 2015, after submission of additional evidence regarding the
16 falsity of Kwo Lee's claims, the CIT lifted its order, holding that the single transaction
17 bond requirement imposed by Customs had not been arbitrary or capricious. In order
18 to secure the U.S. government against potential losses stemming from Kwo Lee's
19 subsequent importations of fresh garlic without the posting of bonds, the CIT required
20 that Kwo Lee post a \$1 million bond pending the final results for QTF in the DOC's
21 POR 20 review.

22 210. On June 20, 2016, the DOC published the final results in POR 20 and
23 assigned QTF an AFA rate of \$4.71 per kilogram. This punitive rate was applied to
24 QTF because the DOC found that QTF had withheld requested information,
25 significantly impeded the review and did not cooperate to the best of its ability. *See*
26 81 Fed. Reg. 39897 (June 20, 2016). However, until the date of this final review
27 determination, QTF sold large amounts of fresh Chinese garlic at less than fair value,
28

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1 covered by deposits at the rate of 35 cents per kilogram, directly harming Plaintiffs,
2 which have seen their revenues and profits reduced as a result.

3 **2. Since the Court's Ruling, QTF Has Continued to Unlawfully Ship**
4 **Fresh Garlic on Behalf of Producers Who Should Be Subject to a**
5 **Much Higher Rate in Order to Benefit Various Members of the**
6 **Enterprise and Damage Plaintiffs.**

7 211. After the injunction fraudulently obtained by Kwo Lee was lifted, QTF
8 began submitting phytosanitary certificates to Customs that appeared to conform with
9 CIQ regulations.

10 212. Although Customs has accepted these certificates, which identify QTF as
11 the producer of the fresh garlic being exported to the United States, QTF lacks the
12 production facilities to produce the amount of fresh garlic it is claiming to have
13 produced to Customs.

14 213. Indeed, QTF has simply continued to unlawfully ship garlic produced by
15 other Enterprise members, including fresh garlic supplied by other members of the
16 Chinese Garlic Association who are owned or controlled by Bai, including but not
17 limited to Lianghe, in violation of its combination rate restriction.

18 214. To evade the country-wide rate for Chinese garlic produced by other
19 companies and maintain its ability to continue shipping garlic at a favorable rate on
20 behalf of those companies, QTF has submitted fraudulent phytosanitary certificates
21 indicating that QTF itself is the producer of the garlic being exported.

22 215. Although garlic shipped by these other producers would normally be
23 subject to the country-wide rate of \$4.71 per kilogram, QTF has been able to
24 unlawfully ship its garlic at a rate of 35 cents, thus flooding the U.S. market with
25 garlic sold at less than fair value and causing significant economic harm to Plaintiffs.

26 216. QTF continued to make these fraudulent claims to the DOC in
27 connection with POR 20, during which it was again represented by Hume.

28 217. In particular, QTF stated that it produced all of the garlic it sold during
the POR at its facility in Jiaozhou City.

1 218. In support of its claim that it produced all of the garlic it exported to the
2 United States, QTF claimed, contrary to applicable Chinese law, that the CIQ did not
3 require physical inspection at the place of exportation, but rather that inspections
4 could be performed electronically.

5 219. These fraudulent statements – made on, *inter alia*, February 2, May 5,
6 May 20, and November 16, 2015 – were contained in submissions filed by Hume via
7 the DOC’s “IA Access” electronic filing system and sent to the DOC via first-class
8 mail.

9 220. In its final decision, published June 20, 2016, the DOC confirmed its
10 preliminary decision of December 4, 2015, wherein it determined that “QTF was not
11 the sole producer of the garlic it reported in its sales database.” In its final POR 20
12 determination for QTF, the DOC assigned the punitive AFA rate of \$4.71 per
13 kilogram, finding that QTF had failed to “explain or otherwise rebut the discrepancies
14 obvious on the fact of its CIQ certificates,” providing “implausible explanations,”
15 which “raised further concerns about the credibility of its responses,” misrepresenting
16 “the identity of the producer(s) of the bulk of its subject merchandise,” and making
17 claims that were “disingenuous and misleading.”

18 221. The fraudulent acts to obtain and maintain lower dumping duties enabled
19 QTF to lower its prices and directly caused Plaintiffs to lose market share and see
20 their profits decrease.

21 222. As a result of QTF and Hume’s participation in the Enterprise’s
22 fraudulent scheme, and the resultant flood of Chinese garlic sold at less than fair value
23 into the U.S. market, Plaintiffs have incurred millions of dollars in additional
24 damages.

25 **D. Defendants Continue Their Unlawful Enterprise to Harm Plaintiffs**
26 **Through the Creation of a War Chest to Fund the Filing of Sham Review**
27 **Requests Targeted at Plaintiffs.**

28 **1. Ye and Bai Recruit Companies to Fund a War Chest with the**
Express Purpose of Harming Plaintiffs.

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1 223. As part of its ongoing efforts to dominate the U.S. market for Chinese
2 garlic and to damage Plaintiffs’ reputation and finances, the Enterprise has continued
3 to engage in unlawful acts.

4 224. In or around September 2014, after Golden Bird received the “death
5 penalty” AFA rate from the DOC, Bai, Ye, Hume, Wang, and the Chinese Garlic
6 Association companies set up a “war chest” for the purpose of funding efforts to use
7 sham dumping review requests as another means to try to replace Plaintiffs’ Chinese
8 garlic products with those of the Chinese Garlic Association companies controlled by
9 Bai, Ye, and Wang.

10 225. This new effort to destroy Plaintiffs’ business in the United States
11 appeared to be prompted, at least in part, by Zhengzhou Harmoni’s refusals to
12 acquiesce to requests by Enterprise members to have their product exported under
13 Zhengzhou Harmoni’s zero deposit rate.

14 226. Although the “war chest” was set up in 2014, various members of the
15 Enterprise had been exchanging ideas about how to manipulate the dumping review
16 system to destroy Plaintiffs’ business as early as 2011. That year, Bai, Wang, and Ye
17 began discussing a plan for harming Plaintiffs by having one or more U.S. farmers file
18 an antidumping review request against Zhengzhou Harmoni as a cover for their
19 companies. That review request could then be used to inflict costs and damages to
20 reputation on Plaintiffs, support an extortion effort, or alternatively, favorably alter the
21 duty rates applicable to Enterprise Members by taking advantage of a new zero duty
22 rate for Plaintiffs, which would be included in the calculation of a new industry-wide
23 rate.

24 227. The plan was to file a request in order to force Plaintiffs to either pay
25 millions of dollars in exchange for withdrawal of the review request or force
26 Zhengzhou Harmoni to participate in the review, both so that it would incur high costs
27 and so that its anticipated new zero duty rate would benefit the Chinese Garlic
28 Association companies owned or controlled by Bai, Wang, and Ye (as the average

1 duty rate for AFA companies would decline upon the inclusion of Zhengzhou
2 Harmoni's new rate).

3 228. In furtherance of this scheme, and supported by the new war chest in
4 2014, Hume and other Enterprise members began seeking out a U.S. garlic farmer to
5 file a review request against Zhengzhou Harmoni with the intent of forcing Plaintiffs
6 to pay millions of dollars for Defendants to withdraw the request or otherwise benefit
7 the other Chinese garlic importers by lowering their rates at Harmoni's expense.
8 Examples of the Enterprise's unsuccessful requests of recruiting such farmers to file
9 such a fraudulent request are set forth in the Declarations of John Doe 1 and John Doe
10 2, submitted under seal in this action, which are incorporated by reference here. *See*
11 Dkt. No. 80.

12 **2. Hume Recruits Crawford to File a Review Request Against**
13 **Zhengzhou Harmoni at the Behest of Other Enterprise Members.**

14 229. Due to the failed attempts to convince others to join the Enterprise's
15 scheme, Hume was forced to travel to the mountains of New Mexico in order to find a
16 small farmer willing to join the Defendants' Enterprise.

17 230. In or around November 2014, Hume sought out and stayed at a bed and
18 breakfast in New Mexico owned and operated by Crawford, a successful author whom
19 Hume believed operated a small farm producing "artisanal" garlic on the same
20 premises which was then offered for sale at a local farmers market.

21 231. During this stay, Hume convinced Crawford – whose farm does not
22 produce garlic commercially – to submit a request that the DOC review Zhengzhou
23 Harmoni's importation of fresh garlic into the United States. Hume agreed to
24 represent Crawford without charge in connection with the review request, as, in
25 reality, he was being paid for this work by other Enterprise members.

26 232. Soon thereafter, on November 28, 2014, Crawford, represented by Hume,
27 filed a request to review Zhengzhou Harmoni via electronic filing and first-class mail.
28 The request, which was certified by Hume, was purportedly made on behalf of

1 Crawford's "El Bosque" farm, a tourist destination comprising two acres of land in
2 northern New Mexico which allegedly produces tiny amounts of garlic, shallots,
3 onions, and other vegetables. El Bosque is not registered in New Mexico, or
4 otherwise, as a business entity or corporation. As a sole proprietorship, El Bosque has
5 no independent legal identity and lacks standing to sue separate and apart from
6 Crawford.³

7 233. However, until Hume met Crawford by arranging to stay at the El
8 Bosque guesthouse, Crawford had never been involved in the DOC fresh garlic
9 antidumping proceedings, knew nothing about the U.S. antidumping regime, and had
10 never heard of Plaintiffs. Indeed, Crawford's request for a review was intended to
11 benefit Hume's Chinese clients and members of the Chinese Garlic Association.

12 234. The vast majority of Crawford's artisanal garlic is sold at the Santa Fe
13 Farmers Market, which by regulation only allows sales of local produce, barring
14 Chinese products from being sold at that location.

15 235. The garlic sold by Crawford at the Santa Fe Farmers Market bears little
16 resemblance to the Chinese garlic sold in bulk by Plaintiffs in the United States. It is
17 significantly more expensive to raise and retails for 10-15 times the cost, is grown
18 during a different time of the year, and also has a very different taste.

19 236. Moreover, Crawford's garlic does not compete with the garlic imported
20 by Plaintiffs. Crawford does not sell garlic to the supermarkets and ethnic stores to
21 which Harmoni sells its commercially-produced garlic, and Harmoni is not allowed to
22 sell its imported Chinese garlic at the Santa Fe Farmers market, which explicitly
23 requires that the produce sold there be grown "locally." By contrast, Plaintiffs' garlic
24 is produced on a large scale similar to that utilized by the domestic industry in

25
26 ³ On December 30, 2014, while Hume was attempting to convince the DOC that Crawford had
27 standing to request a review of Zhengzhou Harmoni, his Chinese counterpart, Huamei, through Lucy
28 Wang, Du and Zhang, entered an appearance and application for administrative protective order
("APO") on behalf of QTF, QXF, Golden Bird and many other Chinese exporters. Although filed
by Huamei, the address provided with the application was virtually identical to the address for Hume
& Associates. Huamei's request for APO access was denied by the DOC on February 13, 2015, as it
was filed on behalf of non-attorney representatives whose primary business practice is outside the
United States.

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1 California and is sold primarily to distributors and directly to end-consumers at ethnic
2 grocery stores.

3 237. Despite Hume and Crawford’s knowledge of the significant differences
4 in product characteristics, scale of production and cost between the El Bosque garlic
5 and Harmoni garlic, El Bosque’s request averred that it was a “domestic interested
6 party” “producing a domestic like product.” Further, the connection between
7 Crawford and the Chinese garlic companies for whom he was acting as a secret front
8 was concealed from the DOC.

9 238. Crawford’s request was a transparent effort by Hume and the other
10 Enterprise members, including Bai, Ye, and the Chinese Garlic Association (who lack
11 standing to request a review of Zhengzhou Harmoni themselves), to deploy Crawford
12 as a front to use false information either to try to convince the DOC to lift Zhengzhou
13 Harmoni’s zero cash deposit rate, making Zhengzhou Harmoni’s garlic more
14 expensive and thus reducing its market share and profitability, or to have the new rate
15 for Zhengzhou Harmoni applied to reduce the industry average rate. Alternatively, the
16 plan was to try to cause Plaintiffs to pay millions of dollars in extortion in order to
17 obtain a withdrawal of the request or to persuade Plaintiffs to funnel garlic for the
18 Enterprise members.

19 239. As a participant in the Enterprise, Crawford was in close contact with
20 Wang and knowingly acted as a secret agent for the interests of the Chinese Garlic
21 Association members.

22 240. For example, in connection with Crawford’s review request of
23 Zhengzhou Harmoni, Harmoni’s CEO, Mr. Frank Zhou, received a telephone call
24 from Bai on March 13, 2015. Bai informed Mr. Zhou that he could have an individual
25 he referred to as the “Lawyer” withdraw Crawford’s review request. In exchange, Bai
26 demanded that Zhengzhou Harmoni withdraw its complaint against Bai’s company,
27 QTF, with the CIQ regarding QTF’s forgery of Zhengzhou Harmoni’s phytosanitary
28

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1 certificates. Mr. Zhou refused to commit to withdraw the complaint against QTF
2 before CIQ.

3 241. After further consideration and during a second telephone call held on
4 March 16, 2015, Bai nevertheless assured Mr. Zhou that he would have the “Lawyer,”
5 presumably Hume, withdraw the review request of Zhengzhou Harmoni the following
6 day.

7 242. This is exactly what occurred. The very next day, without providing the
8 DOC with any explanation, Crawford suddenly withdrew his request for an
9 administrative review of Zhengzhou Harmoni. This withdrawal demonstrates how
10 Crawford and Hume were both acting in the interests of the other Enterprise members
11 – not the domestic industry – by both submitting and withdrawing the request for an
12 administrative review at the behest of the Enterprise, including Bai.

13 243. Further demonstrating his complicity in the scheme against Plaintiffs,
14 Crawford then lied to the DOC about the reasons he had withdrawn his review
15 request. On December 3, 2015, in an apparent effort to hide his connection to the
16 interests of the other Enterprise members, Crawford stated in a submission to the
17 DOC that he had withdrawn his review request the previous year because he was
18 intimidated by private investigators allegedly hired by Harmoni. This assertion,
19 which was submitted via the DOC’s electronic filing system and first-class mail, was
20 false. As Hume later confirmed, Crawford actually withdrew his administrative
21 request to the DOC in response to a request made by Hume at Wang’s instruction.

22 244. Specifically, on information and belief, Bai felt that Plaintiffs, which had
23 complained to Chinese authorities about the unlawful activities engaged in by his
24 companies, were jeopardizing his business in China and hoped that by causing
25 Crawford to withdraw his request, Plaintiffs might cease their calls for an
26 investigation of Bai’s actions in China. Crawford would have become aware of the
27 reasons behind Hume’s direction that he withdraw his request and agreed with Hume
28 to make the withdrawal.

1 245. In addition, Hume as counsel to QTF and counselor to Bai, was aware of
2 the fact that CIQ had uncovered evidence of QTF's U.S. shipments of garlic produced
3 by companies other than QTF itself, not only revealing that QTF had violated CIQ
4 regulations requiring identification of the production facility, but also bringing to light
5 the fact that QTF had lied to the DOC in POR 20, by claiming that it produced all of
6 the garlic that it shipped to the United States during that period, certified as accurate
7 by both QTF and Hume, as counsel to QTF. As such, Crawford's withdrawal of the
8 review request was an attempt to shield QTF, Bai and Hume.

9 246. Crawford also reaped economic benefits as a result of his involvement in
10 the Enterprise. For instance, in 2015, Crawford traveled to China and visited a garlic
11 processing plant belonging to one of the Chinese Garlic Association companies.
12 Crawford's trip was partially funded by Wang. Once again, Crawford failed to
13 disclose this fact to the DOC, again in an effort to hide from the DOC his connection
14 to the other Enterprise members that were behind the review request he had filed.

15 247. In the aftermath of Bai's decision to have Crawford withdraw the El
16 Bosque review request, Ye once again attempted to persuade other companies to join
17 the Enterprise and use their U.S. farms to take Crawford's place in filing a review
18 request.

19 **3. Submission of Additional Forged Zhengzhou Harmoni Phytosanitary**
20 **Certificates to the DOC.**

21 248. As set forth in paragraphs 197-204 above, Hume, acting on behalf of
22 Kwo Lee, had submitted forged Zhengzhou Harmoni phytosanitary certificates to the
23 CIT, and later to the DOC, on at least two occasions.

24 249. Thereafter, on February 20, 2015, Hume, acting on Crawford's behalf,
25 filed with the DOC "New Factual Information Concerning Zhengzhou Harmoni" via
26 electronic filing and first-class mail.⁴

27
28 ⁴ The February 20, 2015 submission was originally filed on February 5, 2015, without the proper
certifications required for a filing with the DOC.

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1 250. In this submission, Hume falsely claimed that Plaintiffs were shipping
2 garlic produced by entities that the DOC had previously determined were subject to
3 the country-wide rate of \$4.71 per kilogram in an attempt to circumvent application of
4 the antidumping rate to those producers.

5 251. To support this false allegation, Hume once again submitted several
6 examples of what he claimed were Zhengzhou Harmoni’s phytosanitary certificates.
7 Specifically, Hume and Crawford asserted that the CIQ codes on these certificates
8 belonged to producers assigned the country-wide rate, stating that “Harmoni has been
9 shipping garlic from producers that were assigned the PRC-wide rate, yet evading
10 duties by using its own zero cash deposit rate.”

11 252. The phytosanitary certificates purportedly belonging to Zhengzhou
12 Harmoni and submitted by Hume and Crawford are forgeries obtained by Hume from
13 Huamei and/or from Bai, Ye, and Wang.

14 253. The submission, along with the attached forgeries, was effectuated
15 through the DOC’s electronic filing system, as well as by first-class mail.

16 254. Hume and Crawford signed a certification verifying the authenticity and
17 truthfulness of the submission. The certifications state that Hume and Crawford,
18 respectively, were “aware that U.S. law (including, but not limited to, 18 U.S.C. §
19 1001) imposes criminal sanctions on individuals who knowingly and willfully make
20 materially false statements to the U.S. Government.”

21 255. Although Hume qualified that Crawford was not personally aware of the
22 information contained in the submission aside from the information released under the
23 APO (likely because the information was received from the Chinese Garlic
24 Association through Huamei), Crawford and Hume knowingly and intentionally made
25 these false claims and submitted the forged certificates in furtherance of the
26 Enterprise’s scheme to destroy Zhengzhou Harmoni’s reputation among its customers
27 and the public and to try to either have Zhengzhou Harmoni’s zero cash deposit rate
28

1 revoked in order to increase the Chinese Garlic Association's share of the U.S. market
2 or to obtain extortionate payments from Plaintiffs to withdraw the review request.

3 256. Each of the participants in the Enterprise, including, *inter alia*, Crawford,
4 Hume, Bai, Ye, Wang and members of the Chinese Garlic Association, stood to
5 benefit from the conduct of the Enterprise in causing these review requests containing
6 false and fraudulent information to be filed against Zhengzhou Harmoni. In
7 particular, Crawford stood to gain financially from his agreement to file the fraudulent
8 review request through payments to him by other members of the Enterprise,
9 including payments for the trip to China made by him, and the covering of his legal
10 fees.

11 **4. Hume and Montoya Recruit Katz to Join with Crawford and Submit**
12 **a Review Request in POR 21 in Furtherance of the Enterprise.**

13 257. In 2015, again with the promise of funds to pay for all fees from the “war
14 chest,” Hume solicited the assistance of Crawford and another hobby farmer, Katz, to
15 file a new sham review request against Zhengzhou Harmoni in POR 21, with the
16 intention of seeking millions of dollars from Plaintiffs in exchange for withdrawal of
17 the request or otherwise benefitting the Enterprise members, damaging the business
18 and reputation of Plaintiffs, or obtaining a lower industry-wide duty rate based on the
19 inclusion of a new rate for Zhengzhou Harmoni in the “average” calculation.

20 258. On November 28, 2015, Montoya filed a review request in connection
21 with POR 21 against Zhengzhou Harmoni on behalf of an entity identified as the New
22 Mexico Garlic Growers Coalition (the “Coalition”) via electronic filing and first-class
23 mail.

24 259. The Coalition, which does not appear to have any independent legal
25 existence, has a total of two members: Crawford, whose previous involvement is
26 discussed above, as well as Katz, a subsistence farmer who does not produce garlic
27 on a commercial scale, as much of what he appears to sell at the local farmers market
28

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1 consists of decorative garlic braids, completely distinct from the type of commercial
2 garlic produced by Zhengzhou Harmoni.

3 260. As was the case for Crawford, until he was solicited to file a review
4 request, Katz had never heard of Zhengzhou Harmoni or Harmoni.⁵

5 261. Katz’s decision to join Crawford in forming the Coalition took place after
6 Crawford had returned from his Enterprise-funded trip to China and presumably
7 reported to Katz what he had learned from his involvement with the Enterprise.
8 Nevertheless, Katz failed to disclose to the DOC his knowledge about the review
9 request’s connection to the interests of the other Enterprise members, who were not
10 part of the domestic industry that Katz claimed to represent.

11 262. At the inception of the POR 21 review cycle, Montoya represented the
12 Coalition on a no charge basis, while at the same time, Hume – his supervising partner
13 and employer - continued to represent QTF and Hume’s associates at Huamei
14 continued to work on behalf of the other Enterprise members. In this way, Hume and
15 Montoya attempted to give the DOC the false impression that they were representing
16 two distinct groups with two distinct sets of interests when in reality they were
17 working together in a close and coordinated fashion to serve the combined and unitary
18 interests of the Enterprise as a whole.

19 263. The pretextual nature of this arrangement was exposed on March 8, 2016
20 when Montoya withdrew his representation of Crawford and Katz before the DOC.
21 Notwithstanding what should have been a clear conflict of interest between the
22 Coalition, as the allegedly “domestic interested party,” and the Chinese garlic
23 importers represented by Hume and Huamei, Montoya was immediately replaced by
24 Hume as counsel to the Coalition. This dual representation by Hume could only take
25 place because, in reality, Katz and Crawford were acting on behalf of the Enterprise
26

27 ⁵ Although Katz claims to have never heard of Bai, Wang, or Ye until he was served
28 with a summons in connection with the instant case in February 2016, Katz’s avowed
lack of knowledge of the Chinese Garlic Association is not credible. Crawford, who
has admitted to a close connection to the Chinese Garlic Association, and Katz are
neighbors and co-members of the Santa Fe Farmers Market Board of Directors.

1 members – and not the domestic industry – so that their interests were, in fact, secretly
2 aligned.

3 264. Katz’s and Crawford’s agreement that they could be represented by one
4 law firm that was also representing Chinese garlic importers demonstrates that they
5 were all participants in the single Enterprise targeted at Plaintiffs with the purpose of
6 benefitting the Enterprise as a whole. While the details of the benefits provided to
7 Katz and Crawford have largely been concealed, they willingly accepted legal services
8 without charge from a law firm they knew was working for importers against the
9 interests of the very domestic industry for which Katz and Crawford purport to be
10 acting.

11 265. The Coalition’s November 28th review request, along with subsequent
12 filings dated December 3, 2015 and February 22, 2016, contained a number of false
13 and fraudulent statements aimed at destroying Plaintiffs’ reputation amongst its
14 customers, as well as causing Zhengzhou Harmoni, which has consistently complied
15 with U.S. antidumping laws, to undergo a burdensome administrative review process
16 and potentially lose its zero rate as a result of the fraudulent representations made by
17 the Coalition.

18 266. As an initial matter, the Coalition’s review request states, inter alia, that
19 Zhengzhou Harmoni is affiliated with a company named Jinxiang Jinma Fruits and
20 Vegetables Products Co., Ltd., a company whose exports of garlic are subject to the
21 country-wide rate of \$4.71 per kilogram. Leaving aside how two local New Mexico-
22 based artisanal farmers would have access to such information, the assertion itself was
23 false. There is no relationship whatsoever between Plaintiffs and Jinxiang.

24 267. The Coalition also goes on to conceal the fact that while it asserts that its
25 two members are filing the review request as participants in the domestic industry,
26 they are really acting as agents for importers of Chinese garlic seeking to use this
27 sham petition to either extort money from Harmoni or gain an improper duty
28 advantage.

1 268. The Coalition and Hume have submitted other false statements regarding
2 Plaintiffs as well. On December 3, 2015, the Coalition filed a supplemental
3 submission falsely stating that Zhengzhou Harmoni is “gaming” the U.S. antidumping
4 law, and repeats the accusation that Zhengzhou Harmoni “act[s] as an umbrella” for
5 other producers that the DOC had previously determined were subject to the country-
6 wide rate. This falsehood, placed on the public record, was directly aimed at
7 damaging Plaintiffs’ reputation with both customers and the DOC.

8 269. On February 22, 2016, the Coalition filed yet another supplemental
9 submission requesting that the DOC “expeditiously” select Zhengzhou Harmoni as a
10 mandatory respondent in POR 21. In that submission, the Coalition fraudulently
11 claims that it “remains committed to ensuring that the domestic industry receives
12 relief.” As discussed above, neither Katz nor Crawford are seeking to protect the
13 “domestic industry,” as they are acting on behalf of the interests of other Enterprise
14 members who were importing Chinese garlic to compete with the domestic industry,
15 and who, in fact, were funding the review request.

16 270. The December 3, 2015 submission, the February 22, 2016 submission,
17 and original review request were filed electronically and by first-class mail with the
18 DOC.

19 271. Both Crawford and Katz, along with Montoya, verified the authenticity
20 of the November 28th, December 3rd submissions, and February 22nd submissions.
21 As with Hume and Crawford’s February 20, 2015 certifications, each of these
22 certifications states that Defendants are “aware that U.S. law (including, but not
23 limited to, 18 U.S.C. § 1001) imposes criminal sanctions on individuals who
24 knowingly and willfully make materially false statements to the U.S. Government.”

25 272. Like Crawford’s withdrawn 2014 review request, the Coalition’s 2015-
26 2016 request and submissions constitute another effort by Defendants to force a costly
27 and burdensome review of Zhengzhou Harmoni by the DOC under false pretenses and
28 based on false allegations. It is a sham proceeding designed to inflict direct injury on

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1 both Plaintiffs, including by the hopes for extortion of money to have the review
2 request withdrawn.

3 273. The Coalition’s false and fraudulent requests and submissions were also
4 made for the purpose of defaming and injuring Plaintiffs and did not serve as a
5 necessary, useful, or good faith step in a legitimate DOC review process.

6 274. As a further direct result of the fraudulent statements contained in
7 Crawford and Katz’s public submissions, Harmoni’s business reputation has been
8 harmed. In addition, Harmoni has incurred significant expenses, including legal fees,
9 in defending itself against this sham proceeding and the fraudulent statements made
10 regarding its business practices.

11 275. On June 3, 2016, the DOC decided that the POR 21 review would
12 continue with Zhengzhou Harmoni being a mandatory respondent. However, the
13 DOC is still considering the fraud allegations filed by both Plaintiffs and the FGPA
14 against Crawford, Katz, and Hume. Until the DOC reaches its preliminary decision
15 on those fraud allegations, however, Plaintiffs are being forced to incur the significant
16 expense of responding to the review request filed by the Coalition and bankrolled by
17 their allies in the Enterprise.

18 **E. Defendant C Agriculture Attempts to Extort Millions of Dollars from**
19 **Harmoni as Part of the Enterprise’s Conspiracy.**

20 276. C Agriculture, a corporation based in New York, buys garlic from
21 importer companies and resells it directly to American consumers, including
22 consumers located in California.

23 277. Historically, C Agriculture has purchased a significant percentage of its
24 garlic supply from Chinese corporations affiliated with Bai and Wang, including
25 Golden Bird.

26 278. In addition to C Agriculture’s active participation in the fraudulent duty
27 evasion scheme run as part of the Enterprise by Golden Bird, Bai, Wang Chen, and
28 Lianghe set forth in paragraphs 171 through 207 above, C Agriculture sent a false and

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1 extortionate letter to Harmoni and one of its major customers, Christopher Ranch, in a
2 deliberate effort to injure Harmoni and further the goals of the overall Enterprise.

3 279. Specifically, on November 18, 2015, attorney James J. DeCristofaro sent
4 a letter to Harmoni on behalf of C Agriculture.

5 280. In the letter, C Agriculture alleges that Harmoni and Christopher Ranch
6 “acted together” in order to sell peeled garlic “at a price significantly below the U.S.
7 market price for peeled garlic,” that this behavior was an antitrust violation, and that
8 this “arrangement” was made possible by using “garlic imports from China processed
9 with prison labor.”

10 281. In addition, C Agriculture asserts that Christopher Ranch “received garlic
11 imports from China processed with prison labor,” presumably from Harmoni.

12 282. The letter concludes by demanding that Harmoni pay C Agriculture a
13 sum of \$32 million in order to stave off a public lawsuit which would further
14 disseminate these baseless, false, and defamatory claims.

15 283. The letter was sent to Harmoni and Christopher Ranch via Federal
16 Express.

17 284. C Agriculture made these false claims in an effort to defame and extort
18 Harmoni. The allegations in the letter were false and C Agriculture knew it had no
19 basis to claim that Harmoni used prison labor in the garlic it imported. C Agriculture
20 also knew that the threat to include such claims in a public lawsuit was for the purpose
21 of threatening to further defame Harmoni. The goal of these false statements was thus
22 to defame and extort Harmoni as part of the Enterprise scheme.

23 285. Moreover, as C Agriculture is aware, selling goods processed using
24 prison labor is illegal. Accordingly, C Agriculture’s letter constitutes an extortionate
25 threat to publicly accuse Harmoni of a crime it did not commit unless Harmoni pays it
26 \$32 million. C. Agriculture’s conduct constitutes extortion under California criminal
27 law even though Harmoni did not ultimately pay this sum.

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1 286. The allegations in the letter are false. Plaintiffs have strict policies
2 prohibiting the use of prison labor in the production of any of their garlic products. In
3 accordance with these policies, neither Harmoni nor Zhengzhou Harmoni has ever
4 used prison labor to produce any of their products.

5 287. Furthermore, Harmoni and Zhengzhou Harmoni have consistently abided
6 by both Chinese law regarding the production and exportation of garlic and U.S. laws
7 regarding the importation of garlic.

8 288. In addition, the photographs attached to the C Agriculture letter, which
9 purported to show prison laborers, were not of any facility that supplied Plaintiffs with
10 garlic.

11 289. C Agriculture apparently had no good faith intention to actually file a
12 lawsuit against Harmoni and/or Christopher Ranch, and, in fact, did not do so. The
13 letter was made for the purpose of interfering directly with Plaintiffs' business
14 relationships, defaming and damaging Plaintiffs' relationships with their customer
15 Christopher Ranch, as well as for the purpose of extorting Plaintiffs, and did not serve
16 as a necessary, useful, or good faith step in any litigation process.

17 290. C Agriculture's principals and management, Wen and Xu, played an
18 active role in the subject defamation and attempted extortion. Both have close
19 business ties to Bai and Ye, and have employed Hume as counsel in prior matters.

20 291. Subsequently, on March 9, 2016, Hume submitted a letter on behalf of
21 QTF to the DOC, requesting the DOC to investigate the assertion in the C Agriculture
22 letter that Plaintiffs use prison labor to process the Chinese garlic they imported to the
23 United States. This republication of the defamatory letter by Hume further ties C
24 Agriculture's efforts to the overall Enterprise scheme.

25 292. The letter, which was submitted via the DOC's electronic filing system
26 and first-class mail, was another attempt to damage Plaintiffs' reputation by
27 submitting false statements regarding Plaintiffs' business practices in the DOC public
28 record.

FIRST CLAIM FOR RELIEF

(Violation of RICO - 18 U.S.C. § 1962(c) - Against All Defendants)

293. Plaintiffs reallege and incorporate herein by reference the allegations of paragraphs 1 through 292 of this Complaint.

294. Plaintiffs, and each of them individually, are “persons” as defined in 18 U.S.C. § 1961(3).

295. Defendants, and each of them individually, are “persons,” as that term is defined in 18 U.S.C. § 1961(3).

296. The RICO “Enterprise” is an ongoing and continuing association-in-fact consisting of Defendants, formed for the common or shared purpose of fraudulently increasing Defendants’ market share in the United States for Chinese garlic and injuring Plaintiffs through unlawful and illegal activities, while providing economic benefits to Defendants. The Enterprise engages in and its activities have an effect on interstate commerce.

297. Each Defendant is associated with the Enterprise and participated directly or indirectly in the management or direction of the Enterprise within the meaning of 18 U.S.C. §§ 1961(4), 1962(c).

298. The specific internal corporate mechanisms and operations by which Defendants carried out their fraudulent scheme, and the specific activities engaged in by Defendants in furtherance of their fraudulent scheme, are within the exclusive knowledge and understanding of those within Defendants’ conspiracy. To date, given the far-reaching, complex, and clandestine nature of Defendants’ fraudulent scheme, Plaintiffs have only been able to gather limited information regarding aspects of the fraudulent scheme.

299. Defendants, and each of them, violated RICO when they conducted or participated in the affairs of Defendants’ Enterprise through a pattern of racketeering activity, by making fraudulent statements regarding Plaintiffs’ business intended to

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1 injure Plaintiffs’ market position, and through other fraudulent acts and illegal
2 business practices.

3 300. The predicate acts of wire and mail fraud under 18 U.S.C. §§ 1343, 1341
4 and extortion under Cal. Penal Code 518-527 constitute a pattern of “racketeering
5 activity” within the meaning of 18 U.S.C. § 1961(1), (5).

6 301. Beginning on a date unknown and continuing through the present,
7 Defendants, and each of them, used the U.S. mails and interstate and international
8 wire facilities to perpetrate their fraudulent scheme to injure Plaintiffs.

9 302. Specifically, and in furtherance of their ongoing fraudulent scheme,
10 Defendants, and each of them, submitted or caused to be submitted, via interstate
11 telephone wires, and through the U.S. Postal Service or other private or commercial
12 interstate carrier, fraudulent statements designed to injure Zhengzhou Harmoni’s
13 reputation, and Harmoni’s reputation, strip Plaintiffs of their lawfully-obtained zero
14 cash deposit rate with the DOC, extort money from Plaintiffs to cease Defendants’
15 unlawful and damaging behavior, or force Plaintiffs to serve as an improper funnel for
16 Chinese garlic exported by Enterprise members or otherwise inflict costs and damages
17 on Plaintiffs while obtaining increased market share for Enterprise members. As
18 detailed above, these false statements were made to the DOC, Customs, the CIT, and
19 to Harmoni’s customers, including Christopher Ranch. Defendants intentionally
20 mailed or caused to be mailed the fraudulent statements, on a regular basis, with the
21 intent to injure Plaintiffs and profit themselves.

22 303. On account of Defendants’ fraudulent scheme, Plaintiffs have been
23 injured in the U.S., including but not limited to, damage to their reputation and
24 business in the U.S. and loss of sales and profits in their importation to and sale of
25 garlic in the U.S.

26 304. Defendants also solicited various individuals to join the Enterprise to
27 seek to try to extort millions of dollars from Plaintiffs in return for withdrawal of the
28 sham and fraudulent review requests. These sham proceedings used false statements

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1 to injure Plaintiffs and conceal the fact that they were improperly being brought on
2 behalf of and funded by, exporters of Chinese garlic – not the domestic industry.

3 305. Defendants also filed fraudulent proceedings with the DOC to funnel
4 imports of Chinese garlic from companies with high duty rates, based on false
5 assertions of, and forged documents concerning, the source of the product. Such sham
6 proceedings caused Plaintiffs additional loss of business and profits and were part of
7 the overall Enterprise scheme.

8 306. At a minimum, Defendants submitted fraudulent statements, as part of
9 the Enterprise, via the U.S. Postal Service, Federal Express, and e-mail
10 communications on the following dates:

- 11 • On February 22, 2013, C Agriculture submitted fraudulent
12 documentation to Customs via the Custom’s electronic interface;
- 13 • On February 23, 2013, C Agriculture submitted fraudulent
14 documentation to Customs via the Custom’s electronic interface;
- 15 • On February 28, 2013, C Agriculture submitted fraudulent
16 documentation to Customs via the Custom’s electronic interface;
- 17 • On March 1, 2013, C Agriculture submitted fraudulent documentation to
18 Customs via the Custom’s electronic interface;
- 19 • On March 2, 2013, C Agriculture submitted fraudulent documentation to
20 Customs via the Custom’s electronic interface;
- 21 • On March 8, 2013, C Agriculture submitted fraudulent documentation to
22 Customs via the Custom’s electronic interface;
- 23 • On March 9, 2013, C Agriculture submitted fraudulent documentation to
24 Customs via the Custom’s electronic interface;
- 25 • On March 15, 2013, C Agriculture submitted fraudulent documentation
26 to Customs via the Custom’s electronic interface;

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- On May 10, 2013, Hume and Golden Bird submitted fraudulent statements to the DOC via the DOC’s electronic filing system and first-class mail;
- On May 17, 2013, Hume and Golden Bird submitted fraudulent statements to the DOC via the DOC’s electronic filing system and first-class mail;
- On May 20, 2013, Hume and Golden Bird submitted fraudulent statements to the DOC via the DOC’s electronic filing system and first-class mail;
- On May 23, 2014, Hume and Golden Bird submitted fraudulent statements to the DOC via the DOC’s electronic filing system and first-class mail;
- On October 2, 2014, Hume, Kwo Lee, and QTF submitted fraudulent statements to the CIT via the CIT’s case management and electronic court filing system;
- On November 28, 2014, Hume and Crawford submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On February 2, 2015, Hume and QTF submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On February 20, 2015, Hume and Crawford submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On May 5, 2015, Hume and QTF submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On May 20, 2015, Hume and QTF submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On November 16, 2015, Hume and QTF submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;

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- On November 18, 2015, C Agriculture sent a letter via Federal Express to Harmoni and Christopher Ranch containing defamatory and extortionate statements;
- On November 28, 2015, Montoya, Crawford, and Katz submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On December 3, 2015, Montoya, Crawford, and Katz submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On February 22, 2016, Montoya, Crawford, and Katz submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail;
- On May 3, 2016, Hume, Crawford, and Katz submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail; and
- On March 9, 2016, Hume and QTF submitted fraudulent statements to the DOC via electronic filing and sent via first-class mail.

307. Each of the specific communications delineated above constitutes a separate RICO predicate act under 18 U.S.C. § 1343 or 18 U.S.C. § 1341. All Defendants are responsible for these fraudulent acts by virtue of their participation in the conspiracy.

308. At all relevant times, Defendants carried out their fraudulent scheme through other agents and employees of Defendants, working across state and national boundaries, who necessarily relied upon the frequent transfer of documents and information and funds by the U.S. mails and interstate wire facilities. The nature and pervasiveness of the Enterprise necessarily required communications directly and frequently by the U.S. mails and interstate wire facilities.

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1 309. In addition, the letter sent by C Agriculture was part of the Enterprise and
2 constitutes extortion under California criminal law. *See* Cal. Penal Code §§ 518-527
3 (“Extortion is the obtaining of property from another, with his consent, or the
4 obtaining of an official act of a public officer, induced by a wrongful use of force or
5 fear, or under color of official right.”). Under California law, sending a letter
6 attempting to extort is punishable as extortion even if the money is not actually
7 obtained. State law extortion constitutes a RICO predicate act.

8 310. Defendants’ violations of federal law and their pattern of racketeering
9 activity have directly and proximately caused Plaintiffs to be injured in their business
10 and property, including in an amount of lost sales and profits to be determined at trial.
11 These injuries were proximately caused by Defendants’ actions which were targeted at
12 Plaintiffs and no one else.

13 311. This Claim is brought under 18 U.S.C. § 1964(c) of RICO, under which
14 Defendants are jointly and severally liable to Plaintiffs for three times the damages
15 sustained, plus the costs of bringing this suit, including reasonable attorneys' fees and
16 expenses.

SECOND CLAIM FOR RELIEF

(Violation of RICO - 18 U.S.C. § 1962(d) - Against All Defendants)

19 312. Plaintiffs reallege and incorporate herein by reference the allegations of
20 paragraphs 1 through 311 of this Complaint.

21 313. This Count, which alleges RICO Conspiracy violations as provided in 18
22 U.S.C. § 1962(d), is asserted against all Defendants.

23 314. Section 1962(d) of RICO provides that it “shall be unlawful for any
24 person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this
25 section.”

26 315. Defendants have violated § 1962(d) by conspiring to violate 18 U.S.C. §
27 1962(c). The object of this conspiracy was to conduct or participate in, directly or
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1 indirectly, the conduct of the affairs described previously through a pattern of
2 racketeering activity.

3 316. The nature of the acts, material misrepresentations, and omissions in
4 furtherance of the conspiracy indicates that they not only agreed to the objective of an
5 18 U.S.C. § 1962(d) violation of by conspiring to violate 18 U.S.C. § 1962(c), but
6 they were aware that their ongoing fraudulent acts have been and are part of an overall
7 pattern of racketeering activity.

8 317. As a direct and proximate result of Defendants' overt acts and predicate
9 acts in furtherance of violating 18 U.S.C. § 1962(d) by conspiring to violate 18 U.S.C.
10 § 1962(c), Plaintiffs have been and are continuing to be injured in their business and
11 property in an amount to be determined at trial.

12 318. Defendants sought to and have engaged in the commission of, and
13 continue to commit overt acts, including the predicate acts of wire and mail fraud
14 under 18 U.S.C. §§ 1343, 1341 and extortion under Cal. Penal Code 518-527 that
15 constitute a pattern of “racketeering activity” within the meaning of 18 U.S.C. §
16 1961(1), (5).

17 **PRAYER FOR RELIEF**

18 WHEREFORE, as a result of the foregoing, Plaintiffs Harmoni International
19 Spice, Inc., and Zhengzhou Harmoni Spice Co., Ltd. pray for relief as follows:

- 20 1. Recovery of actual damages from Defendants according to proof at trial;
- 21 2. An award of treble damages pursuant to 18 U.S.C. § 1964 (RICO) from
22 Defendants;
- 23 3. Attorneys’ fees incurred in connection with this action pursuant to 18
24 U.S.C. § 1964(c);
- 25 4. Costs incurred in connection with this action pursuant to 18 U.S.C. §
26 1964(c); and
- 27 5. Such other and further relief as the Court deems just and proper.

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Dated: June 24, 2016

WINSTON & STRAWN LLP

By: /s/ John E. Schreiber

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SPICE, INC. and ZHENGZHOU
HARMONI SPICE CO., LTD.

Plaintiffs Harmoni Spice International, Inc. and Zhengzhou Harmoni Spice Co.,
Ltd. hereby request trial by jury pursuant to Fed. R. Civ. P. 38(b).

Dated: June 24, 2016

WINSTON & STRAWN LLP

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