

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

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PEOPLE OF THE STATE OF NEW YORK, by  
ERIC T. SCHNEIDERMAN, Attorney General of the  
State of New York,

Petitioner,

-against-

KMG DIRECT, INC., HIGH LIFE USA, LLC,  
ELIEZER KLIGER, Individually and as Principal of  
KMG DIRECT, INC. and HIGH LIFE USA, LLC,

Respondents.

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**VERIFIED PETITION**  
**Index No.: 2014EF4828**  
**RJI No.: 33-14-4614**

The People of the State of New York, by their attorney, Eric T. Schneiderman, Attorney General of the State of New York, allege as follows:

**PRELIMINARY STATEMENT**

1. Petitioner brings this special proceeding pursuant to New York Executive Law § 63(12) and New York General Business Law (“GBL”) § 349 to enjoin Respondents KMG Direct, Inc., and its principal, Respondent Eliezer Kliger, (hereinafter “Respondents” or “KMG,” from engaging in deceptive, fraudulent and illegal practices in connection with their business (commonly known as a “head shop supplier”). Respondents sell so-called designer drugs, which are synthetic versions of illegal drugs, as well as other street drug alternatives, which are products that are marketed with claims that the effect of their use mimics controlled substances. Designer drugs and other street drug alternatives [hereinafter “designer drugs”] are marketed to avoid the provisions of existing drug laws; they are intended to stimulate, sedate or cause

hallucinations or euphoria when ingested or inhaled. Petitioner also seeks civil penalties and costs, as authorized by statute, to be paid to the State of New York.

2. The sale of designer drugs has contributed to a continued public health crisis in New York State and across the nation. These products are distributed to and sold by head shops for their psychoactive effects akin to those obtained from illegal drug use. Many of the products are packaged with innocuous names and bright graphics to give the misleading impression that their use is harmless. Others are packaged and named to mimic illegal drugs or legal prescription drugs. The products target people who wish to engage in recreational legal drug use and/or who do not want to risk a positive drug test. Many products are insufficiently labeled, mislabeled and/or misbranded, lacking identification of ingredients, adequate directions for use, adequate warning labels, and/or manufacturer information. In addition, some products that bear labels stating “not fit for human consumption,” or other similar terms, are deceptively misrepresented by manufacturers, distributors and head shops to consumers as drugs with psychoactive properties.

3. Misrepresenting products as safe for human consumption and selling products that are insufficiently labeled, mislabeled or misbranded is inherently misleading and dangerous. Consumers cannot make informed decisions about the safety of the products they are purchasing without knowing the contents of the products and how they are intended to be used. Some of these products may cause serious health effects such as agitation, tachycardia (rapid heartbeat), hallucinations, seizures, extreme paranoia, panic, vomiting, mood swings, intense cravings to redose, suicidal or homicidal thoughts, or even death. Consumers who experience dire health consequences as a result of ingesting these products are at further risk. Without being able to

disclose to emergency personnel and health care providers the chemicals they have ingested, the users of these products may not receive appropriate medical treatment.

4. New York State has enacted a comprehensive statutory scheme with respect to the labeling of commodities and drugs. For example, the New York State Agriculture and Markets Law (hereinafter “Ag. & Mkts. Law”) § 194 regulates labeling of commodities, including non-prescription drugs. The New York State Education Law (hereinafter “Educ. Law”) § 6802 proscribes misbranding of all drugs. Crucial to protecting the health of all New Yorkers is enforcement of the state’s laws prohibiting mislabeling of commodities and misbranding of drugs.

5. In addition, the New York State Public Health Law (hereinafter “Pub. Health Law”) § 3380 proscribes the sale of nitrous oxide to any person, firm or corporation who or which sells drug-related paraphernalia. Respondents sold nitrous oxide to a retail store which was designed to sell drug-related paraphernalia.

#### **PARTIES AND JURISDICTION**

6. Petitioner is the People of the State of New York, by their attorney, Eric T. Schneiderman, Attorney General of the State of New York.

7. Petitioner brings this proceeding pursuant to New York Executive Law § 63(12) which authorizes the Attorney General to seek injunctive relief, restitution, damages and costs when any person or entity has engaged in repeated fraudulent or illegal acts or has otherwise engaged in persistent fraud or illegality in the conduct of its business, and pursuant to GBL Article 22-A, which authorizes the Attorney General to seek injunctive relief, restitution and civil penalties against any person or business entity that has engaged in deceptive business practices.

8. Respondent KMG Direct, Inc., is a domestic corporation with a principal place of business at 33 35<sup>th</sup> Street, Brooklyn, New York.

9. Respondent KMG Direct, Inc., also conducts or has conducted business under the following dba's: KMG Sales, SDRshop, NOMOSMOKE, VAPOROMA, TRONIC SPORTS, and GREAT DEALS DEPOT. KMG Direct is a distributor of head shop products to retail outlets and its own retail business identities such as, for example, SDRshop.

10. Respondent High Life USA, LLC, is a foreign, revoked corporation without authority in the state of New York and operates as a retail head shop online at [www.highlifeusa.com](http://www.highlifeusa.com). High Life USA has a principal place of business at 33 35<sup>th</sup> Street, Brooklyn, New York.

11. Respondent Eliezer Kliger resides at 6622 Forest Hills, Queens, New York, and is a principal of KMG Direct, Inc. and High Life USA, LLC.

12. Respondents are hereinafter referred to collectively as "KMG" or "Respondents" unless otherwise noted.

13. Petitioner has timely served Respondents with pre-litigation notice pursuant to GBL § 349(c).

## **FACTS**

14. Respondents own and operate wholesale distributorship and retail online shops specializing in providing products to consumers directly and also to "head shops" that specialize in the retail sale of drug paraphernalia for the consumption of cannabis and other illegal substances, as well as the sale of designer drugs. Designer drugs are marketed as innocuous products but are designed to stimulate, sedate or cause hallucinations or euphoria when ingested or inhaled. Many of these products are harmful to consumers.

15. Respondents advertise the following categories of products for sale on their retail “Online Head Shop,” at [www.highlifeusa.com](http://www.highlifeusa.com): Water Pipes, Hand Pipes, Bubblers, Chameleon Glass, Concentrate Pipes, Glass Hand Pipes, Rasta Glass, Vaporizers, Hookahs, Diffusers & Ash Catchers, Grinders, Pollen Boxes, Safe Cans, Scales, Cleaners, KratoMonster, Nitrous Oxide & Party Supplies, Spare Parts, Vortex, Tobacco Accessories, Detox Formulas & Novelty Urine, Groovy Chews, Glass Ash Trays, Sex Enhancers, Hydroponic Nutrients & Supplies.

16. Respondents also advertise the following categories of products for sale on their retail “Online Head Shop,” at [www.sdrshop.com](http://www.sdrshop.com): SDR Glass, Chameleon Glass, Water Pipes, Concentrate Pipes, Hand Pipes, Bubblers, Vaporizers, Hookahs, Diffusers & Ash Catchers, Grinders, Pollen Boxes, Safe Cans, Scales, Cleaners, KratoMonster, Nitrous Oxide & Party Supplies, Hydroponics Nutrients & Supplies, Spare Parts, Tobacco Accessories, Vortex, Rasta Glass, Pinktastic, PUK Pipe.

17. The respondents’ wholesale site, [www.kmgsales.com](http://www.kmgsales.com), claims to operate as a wholesale distributor for “over 7 years” with listed categories of products including: Hydroponics Nutrients & Supplies; Spare Parts; Hookahs; Hand Pipes; Waterpipes; Nitrous Oxide & Party Supplies; Diffusers / Ashcatchers; Tobacco Accessories; Cleaners; Vaporizers; Scales; Safe Cans; Bubblers; Grinders; Pollen Boxes.

18. The Office of the New York State Attorney General Eric T. Schneiderman (“OAG”) conducted an undercover investigation that revealed extensive evidence that the respondents offer for sale and sell (in addition to the volumes of described drug paraphernalia listed above) mislabeled and misbranded designer drugs and nitrous oxide to the public. The Food and Drug Administration (FDA) similarly considers any product that is promoted as a street drug alternative to be an unapproved new drug and misbranded drug in violation of

sections 505 and 502 of the Federal Food, Drug, and Cosmetic Act. 21 U.S.C. §§ 321(p)(1), 352(f)(1).

19. Respondents offer for sale and sell these products in such a manner as to either explicitly or implicitly offer the products as designer drugs.

20. As detailed below, Respondents offered for sale and sells, *inter alia*, the following designer drugs: Salvia Max (5X, 60X, 80X), Salvia Zone (Yellow and Purple strengths), Bali Diesel, Sativah Herbal Blend, KratoMonster, Vector Pills, and ZanziBarz. Respondents also offer for sale and sell canisters of nitrous oxide together with common delivery devices ("crackers"), despite its lack of an exemption by the Commissioner of the State Health Department to sell such products. Indeed, New York State Law does not allow exemptions for retail sale of nitrous oxide to the public, or sales to businesses which sell drug-related paraphernalia.

21. Respondents, under its name "High Life USA" were also engaged in the manufacture or re-packaging of a drug labeled Salvia Max (5X, 60X, 80X) for distribution to the consuming public.

22. On multiple occasions between March 2014, and September 2014, Chad Shelmidine, a Senior Investigator employed by the OAG ("Inv. Shelmidine") went undercover as a retail store owner to purchase products from the respondents. Utilizing the name Ed Maldonado, Mr. Shelmidine contacted the respondents to purchase products for his fictitious store, "Hiawatha Phatty Shack," located at 502 Hiawatha Blvd. West, Syracuse, New York.

23. Over the course of several purchases, the respondents provided Investigator Shelmidine with drug paraphernalia, samples of street drug alternatives, then numerous street

drug alternatives, nitrous oxide canisters, and “crackers” used for piercing the nitrous canisters for inhalation.

#### Smokable Leaf-Type Drugs

24. Respondents offered for sale and sold to Investigator Shelmidine four types of smokable leaf product, including Salvia Max (various strengths), Salvia Zone (various strengths), Bali Diesel, and Sativah, all offered as designer drugs.

#### Salvia—Powerful Hallucinogenic Drug

25. Respondents sell various brands and strengths of salvia, a well-known psychoactive drug product with no known use other than for mind-altering drug effect. According to the U.S. Department of Justice Drug Enforcement Administration, salvia divinorum is an herb in the mint family native to certain areas of the Sierra Mazateca region of Oaxaca, Mexico. Salvia divinorum products are "abused for their ability to evoke hallucinogenic effects, which, in general, are similar to those of other scheduled hallucinogenic substances." Salvinorin-A is identified as the ingredient responsible for the hallucinogenic effects. Neither Salvia divinorum nor its active ingredient, Salvinorin-A, has any approved medical uses in the United States.

26. “*Salvia Max.*” The respondents sold to Investigator Shelmidine a product named "Salvia Max," another smokeable designer drug. The product was packaged in a small display box with labeling, and additional product literature inserted in the box itself with the product. “Salvia Max” was sold by respondents in many “levels,” although Investigator Shelmidine only purchased three different strengths. The Salvia Max front label depicts a lion head wearing a crown with the words, “Live The High Life” over its head. This graphic is identical to the one prominently featured on the respondents’ retail website, [www.highlife.usa.com](http://www.highlife.usa.com). The front label

states “Salvia Max”, “80x”, “Standardized Extract” and “1 Gram.” The rear label of the package reads as follows:

“© 2009 High Life USA, LLC  
All rights reserved.

Manufactured for:  
High Life USA LLC  
Las Vegas, NV 89109

Warning – This product :

- is not intended for use by pregnant/nursing women or any individuals under the age of 18.
- is intended for use by the buyer only. If the product is shared, it is the buyer’s responsibility to ensure that whoever uses the product understands and complies with all warnings and suggestions.
- is not intended to diagnose, treat, cure, or prevent disease.
- has not been fully clinically tested or researched.
- can produce a variety of effects/side effects depending on the individual. These include, but are not exclusive to headache, disassociation, and/or an altered sense of perception.
- should be discussed with your physician prior to use.
- should be used at one’s own risk.
- has not been evaluated by the FDA.

**NOT MEANT FOR CONSUMPTION OR INGESTION. INHALATION OF SMOKE IN ANY FORM IS HARMFUL TO THE LUNGS AND BODY AND MAY CAUSE DAMAGE.**

By purchasing this product, the buyer acknowledges that they have read and understood all warnings and suggestions provided by High Life USA, LLC. The buyer takes full responsibility for any and all actions/reactions that may occur while using this product and will not hold High Life USA, LLC or any of its affiliates liable in any way.  
For more info please visit: [www.highlifeusa.com](http://www.highlifeusa.com) [www.salviamax.com](http://www.salviamax.com)

27. Salvia Max was also sold to Investigator Shelmidine in “5x” strength, as depicted on the front label. The remainder of the front and rear labels was otherwise identical.

28. The Salvia Max product contains a small plastic sleeve of product, stapled to additional product literature, which reads as follows:

“Live the High Life, Salvia Max 1 Gram (front of folded card)

**Helpful Suggestions**

Always use in a safe environment, free from clutter or anything that may be distracting.  
**Sitting or lying down is a must.**

Salvia is a tool for self discovery and introspective understanding. Concentrating on a particular thought or issue about one's self while using this product allows for a more insightful and relevant experience.

It is extremely important that the product be used in accordance with its color-coded potency system. This allows users to become comfortable with the effects associated with each specific level before proceeding on to the next. Disregarding this suggestion may led to a less than favorable experience.

[Followed by a pictorial representation of "levels" 5x, 10x, 20x, 40x, 60x, 80x]

The inside, right side of the card states as follows:

Closing one's eyes will greatly enhance the sensation. The sensation comes on in three waves. The first (The Gust) is the strongest and lasts usually 3-5 minutes. The second (The Glide) is more mellow and lasts about 15-20 minutes. The third (The Glow) is the lightest and can last for up to 2 hours.

Always have a sitter present. This person can watch over you to make sure your experience is safe and positive. Taking turns using this product enables everyone to enjoy meditative bliss in a responsible manner.

Never attempt to operate any form of heavy machinery or moving vehicle while using this product.

For more info please visit:

[www.highlifeusa.com](http://www.highlifeusa.com)    [www.salviamax.com](http://www.salviamax.com)

The rear of the card states as follows:

**Directions for Proper Use**

- There are 5 experiences per ½ gram pack and 10 experiences per 1 gram pack.
- Place the suggested amount (1/10 of gram/heavy pinch) into an approved smoking device. This is enough for one individual and should not be shared communally.
- Light material and breath [sic] in. Hold for 30 seconds before exhaling. **This step is extremely important to get the full and desired effect.**
- Repeat until material is spent.

29.     “*Salvia Zone.*” “Salvia Zone” products are packaged in a small display box with two lift up panels on the front revealing additional product labeling. It is available in five strength “levels of potency” as described on the packaging and set forth below.

30. Salvia Zone—Yellow Level: Investigator Shelmidine purchased two different levels of Salvia Zone potency, “Purple Level” and “Yellow Level.” The Purple Level was packaged in one gram and the Yellow was a half gram. The Yellow Level Salvia Zone states on its exterior front label:

“Not all leaf is the same!”  
“Salvia Zone”  
“FORTIFIED LEAF”  
“YELLOW LEVEL”  
“28 mg/g Salvinorin A”  
“DEEP SELF-EXPLORATION”

31. Lifting the front panel reveals four additional panels of labeling, which contain information as follows:

First interior panel:

“DIRECTIONS FOR PROPER USE  
There are 5 experiences per ½ gram pack and 10 experiences per 1 gram pack.  
- Place the suggested amount (1/10 of gram/heavy pinch) into an approved smoking device. This is enough for one individual and should not be shared communally.  
- Light material and breath [sic] in. Hold for 30 seconds before exhaling. This step is extremely important to get the full and desired effect.  
- Repeat until material is spent.  
If you have any questions regarding the use or effects of any Salvia Zone product, visit: [SalviaZone.com](http://SalviaZone.com)”

The middle interior panel states:

“HELPFUL  
Always use in a safe environment free from clutter or anything that may be distracting. Sitting or lying down is a must.  
Salvia is a tool for self discovery and introspective understanding. Concentrating on a particular thought or issue about one’s self while using this product allows for a more insightful and relevant experience.

It is extremely important that the product be used in accordance with its color coded potency system. This allows users to become comfortable with the effects associated with each specific level before proceeding on to the next. Disregarding this suggestion may lead to a less than favorable experience.  
[Five color bubbles with the corresponding potency level are depicted below.]

The right sided concealed panel reads as follows:

**SUGGESTIONS**

Closing one's eyes will greatly enhance the sensation.

The sensation comes on in three waves. The first (The Gust) is the strongest and lasts usually 3-5 minutes. The second (The Glide) is more mellow and lasts about 15-20 minutes. The third (The Glow) is the lightest and can last for up to 2 hours.

Always have a sitter present. This person can watch over you to make sure your experience is safe and positive. Taking turns using this product enables everyone to enjoy meditative bliss in a responsible manner.

Never attempt to operate any form of heavy machinery or moving vehicle while using this product.”

The fourth interior panel states as follows:

**“TURN YOUR BRAIN ON!@**

Calibrated into 5 distinct levels of potency, users can now confidently decide how far into the meditative state they wish to go each and every time.

**GREEN**-Personal Discovery

**YELLOW**-Deep Self-Exploration

**RED**-Visionary Quest

**PURPLE**-Beyond\*

**BLUE**-Infinity\*

\*Please note that the Purple and Blue levels were created as addenda to the original Salvia Zone program and are reserved for extremely veteran Salvia users with clear and specific meditative objectives. It is not intended for novice or recreational use. Caution is required.

This product was developed for responsible adults engaging in personal and spiritual exploration. Used properly, Salvia Zone products are wonderfully helpful tools for anyone searching for a deeper understanding of one's self. If this is not your intention, then this product is not for you. Full directions and suggestions are provided on this package and must be followed exactly. Misuse of any Salvia Zone product in any way is unacceptable and not endorsed by NAP & Associates, LLC.”

The rear label of Yellow Level states:

**“Warning – This product:**

**-is not intended for use by pregnant/nursing women or any individuals under the age of 18.**

-is intended for use by the buyer only. If the product is shared, it is the buyer's responsibility to ensure that whoever uses the product understands and complies with all warnings and suggestions.  
-is not intended to diagnose, treat, cure, or prevent disease.  
-has not been fully clinically tested or researched.  
-can produce a variety of effects/side effects depending on the individual. These include, but are not exclusive to headache, disassociation, and/or an altered sense of perception.  
-should be discussed with your physician prior to use.  
-has not been evaluated by the FDA.

NOT MEANT FOR CONSUMPTION OR INGESTION. INHALATION OF SMOKE IN ANY FORM IS HARMFUL TO THE LUNGS AND BODY AND MAY CAUSE DAMAGE.

By purchasing this product, the buyer acknowledges that they have read and understood all warnings and suggestions provided by NAP. The buyer takes full responsibility for any and all actions/reactions that may occur while using this product and will not hold NAP & Associates, LLC or any of its affiliates liable in any way.

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32. Salvia Zone—Purple Level: The Purple Level Salvia Zone product similarly states on its front label:

“Not all leaf is the same!”  
“SALVIA ZONE”  
“FORTIFIED LEAF”  
“PURPLE LEVEL”  
“80 mg/g Salvinorin A”  
“BEYOND”  
“1 Gram” (this box is hand marked)  
“1/2 Gram”

The rear label states:

“Warning – This product:  
-is not intended for use by pregnant/nursing women or any Individuals under the age of 18.  
-is intended for use by the buyer only. If the product is shared, it is the buyer's responsibility to ensure that whoever uses the product understands and complies with all warnings and suggestions.  
-is not intended to diagnose, treat, cure, or prevent disease.

-has not been fully clinically tested or researched.  
-can produce a variety of effects/side effects depending on the individual.  
These include, but are exclusive to headache, disassociation, and/or  
an altered sense of perception.  
-should be used at one's own risk.  
-has not been evaluated by the FDA."  
"NOT MEANT FOR CONSUMPTION OR INGESTION. INHALATION OF SMOKE  
IN ANY FORM IS HARMFUL TO THE LUNGS AND BODY AND MAY CAUSE  
DAMAGE."  
"By purchasing this product, the buyer acknowledged that they have read and understood  
all warnings and suggestions provided by NAP. The buyer takes full responsibility for  
any and all actions/reactions that may occur while using this product and will not hold  
NAP & Associates, LLC or any of its affiliates liable in any way."  
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Art♦design by [www.nemo.org](http://www.nemo.org)

The interior labels of the Purple Level contain the same printing as described for the Yellow Level.

#### *Other Smokeable*

33. "Bali Diesel." The respondents also sold a product called "Bali Diesel" in two different weights to Investigator Shelmidine. The front label of this small, square foil package has trails of smoke in the background, a clover leaf with the words "CLUB 13" inside it at the top, "BALI DIESEL™" and "SMOKE" "1GRAM" listed on the front. The rear of the package has a label which reads (again with the clover leaf inscribed "CLUB 13" at the top):

"Satisfaction Guaranteed or your money back!  
18 years old & over only.

"Made with 100% Natural Botanical Herbs & Extracts: Leaf of Passiflora, Leaf of Arctostaphylos Uva Ursi, Leaf of Eschscholzia California, Leaf/Stalk/Flower of Scutellaria Lateriflora, Leaf of Melissa Officinalis, Leaf/Stalk Lactica Virosa, Flower/Leaf Artemisia Vulgaris, Flower of Leonotis Leonurus, & Natural Flavoring.

#### Directions:

Bali Diesel can be used in a Pipe, Water pipe, Vaporizer or rolled into a cigarette. Bali Diesel also works wonderfully with other commonly smoked herbs. Peak effects last for 2 to 4 hours.

**Caution:**

Do Not use this product if you are: \*Taking prescription medication, \*Operating Heavy machinery, \*Pregnant or nursing, \*Have a history of depression or mental illness, \*Have any allergies to herbs.

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S.A. FL, 32084 USA  
Club13.com 877-922-5783  
Made in the USA

34. The Bali Diesel was sold to Investigator Shelmidine in 1-gram packages and 1/8 ounce packages. It is sold for “effect” and is apparently incompatible in undescribed ways if the user requires prescription medications, if the user is pregnant or nursing, has depression or mental illness, or unspecified “allergies to herbs.”

35. *Sativah*. The respondents also sold a product called “Sativah” to Investigator Shelmidine. The front label of this medium, square foil package also has trails of smoke in the background, and states that it is “SATIVAH®” described as “a potent blend of herbs to expand the conscience”. The front label has the silhouette of a child with a red line through it, and the words, “SMOKING RELATED PRODUCT-NOT FOR SALE TO MINORS.” The front label includes the weight, “CONTAINS 7 Grams [1/4oz]” and the words “ROLLING PAPERS INCLUDED INSIDE!”

36. The Sativah rear label states:

**SMOKING RELATED PRODUCT-NOT FOR SALE TO MINORS**

**SATIVAH®**

A potent blend of herbs to expand the conscience

Sativah contains herbs in concentration known to promote incredibly vivid dreams and inspire the imagination. God Spared Onze Koningin.

Best results if used before bedtime.

This blend may contain: Feverfew, Wild Lettuce, Skullcap (Mad Dog Weed), Damiana, Artemisia Vulgaris, Raspberry Leaf, Chamomile, Mentha Spicata, Rosemary and Jasmine Flower

**WARNING:**

These herbs were cut and sifted for smoking. Do not eat these herbs. Do not operate heavy machinery while using this product. Please consult with your physician before using this or any herb or herbal product. Sale of this product to minors is strictly prohibited. Please check regulations before purchasing or using this product.

7 grams/ 1/4oz

Made in the USA/fabriqué aux États-Unis  
Distributed by HBI®, ©HBI/Distribué par HBI®, ©HBI  
[www.juicyjays.com](http://www.juicyjays.com)

These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease. Any information provided on this product is for informational purposes and is not intended as a substitute for advice from your physician and any other healthcare professional or any information contained on any product label or packaging. You should consult with a healthcare professional before starting any diet, exercise or supplement program, before taking any medication, or if you have or suspect you might have a health problem.”

Pills

37. The respondents also sold Investigator Shelmidine three types of pills, “KratoMonster,” “Vector,” and “ZanziBars.”
38. All of the pills sold to Investigator Shelmidine are street drug alternatives.
39. “*KratoMonster*”. This product comes in a colorful small square foil wrapper with a comical, dazed appearing cartoon figure with one eye. The front package states:

**KRATOMONSTER**

**10 CAPSULES      10 GRAMS**

The rear label states:

**“KRATOMONSTER  
LET THE MONSTER TAKE YOU AWAY!  
100% EFFECTIVE – 100% ORGANIC  
10 MAENG DA CAPSULES**

Ingredients: 100% Pure Extracted Mitragyna Speciosa Leaf  
Use with caution. Do not use while operating a motor vehicle or machinery, if you are pregnant or nursing, or if you are taking any prescription or non-prescription drugs. This product has not been evaluated by the FDA & is not intended to treat, prevent, cure or diagnose any illness. Must be 18 years of age to use this product. Manufactured for Kratomonster, Los Angeles, CA  
[WWW.KRATOMONSTER.COM](http://WWW.KRATOMONSTER.COM)”

40. The KratoMonster was also sold for “effect” and clearly contemplates some physical or mental impact given the vague warnings. Mitragyna Speciosa is kratom, a recognized drug identified by the Drug Enforcement Administration as a “drug of concern” and banned in its country of origin.

41. “*Vector.*” The Vector pills were sold in two capsule packs. According to the packaging, Vector Pill is for “Unbelievable Bliss...Designed to support your mood and stay awake.”

42. The Vector capsules come in small plasticized paper packages. They are colorful shades of orange and yellow radiating over a silhouetted crowd of people dancing in a club-type setting. The front of the Vector package has the following written material:

RedXDawn®

VECTOR®

Unbelievable Bliss®

Dietary Supplement

Net Contents: 2 capsules

The rear label is almost fully populated with fine print, including:

“Vector® Pill is Unbelievable Bliss®...  
Designed to support your mood and stay awake.  
Vector is great for both men & women.

Suggested use: Adults take one capsule. Not intended for persons under the age of 18. It may take about an hour to take effect. Effects vary from person to person. **DO NOT take more than one capsule within a 24 hour period.**

**Supplement Facts**

Serving Size: 1 Capsule

Servings Per Container: 2

Amount Per Serving	% Daily Value
Vector Proprietary Blend	700 mg *
Caffeine Anhydrous	
4-amino-3-phenylbutyric acid	
Gamma-Aminobutyric acid (GABA)	
5-Hydroxytryptophan (5-HTP)	
Dimethylamylamine (DMAA)	
Other Ingredients: Capsule (gelatin, water), Magnesium Stearate, Rice Flour.	

\*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

Manufactured for  
RedXDawn®  
1075 Cobb International Place Suite F  
Kennesaw, GA 30152  
866-RED-DAWN

**WARNING: DO NOT DRIVE OR OPERATE HEAVY MACHINERY WHILE USING THIS PRODUCT.** This Dietary supplement should not be taken by people who are sensitive to herbal products. Do not use if you are pregnant or nursing, have high blood pressure, are taking antidepressants, have heart or thyroid disease, diabetes, have prostate problems, have ever had a seizure, or if you are taking an MAO inhibitor. If tremor, nausea, or nervousness occurs, consume plenty of water, discontinue use and contact your health care provider. Store in a cool dry place and avoid excess heat and humidity. When using this product avoid alcoholic drinks. The recommended dose of this product contains about as much caffeine as two cups of coffee. Limit the use of caffeine-containing medications, foods, or beverages while taking this product because too much caffeine may cause nervousness, irritability, sleeplessness, and, occasionally, rapid heart beat. Do not give to children under 18 years of age. **DO NOT USE THIS PRODUCT UNLESS IT HAS BEEN APPROVED BY YOUR DOCTOR.** If pregnant or nursing, ask a health care professional before use. **KEEP OUT OF REACH OF CHILDREN. NOT INTENDED FOR PERSONS UNDER THE AGE OF 18.**

43. DMAA has been identified by the Food and Drug Administration as a stimulant drug, illegally classified as a “dietary supplement.” The FDA recognizes DMAA as an illegal

ingredient in “dietary supplements” recognizing that it is an amphetamine derivative, particularly in combination with other ingredients such as caffeine, can be a health risk to consumers including elevating blood pressure, cause cardiovascular problems ranging from shortness of breath and tightening in the chest, heart attacks, arrhythmias, seizures, and other neurological and psychological conditions.

44. “ZanziBarz.” The ZanziBarz pills are nearly identical in appearance to prescription Xanax pills, i.e., long white tablets evenly scored with three lines creating 4-equal quarters. Prescription Xanax tablets sold illegally on the street are sometimes called “z-bars” or “Zaney Bars.” Xanax is an anti-anxiety medication. ZanziBarz claim to be “Euphoric Relaxation Tablets.”

45. The ZanziBarz are packaged with three pills in a sealed plastic card. The labeling on the front of the pills, which is decorated with a pink sky and palm trees, states:

“Euphoric Relaxation Tablets

\*ZANZIBARZ\*

Paradise Is Closer Than You Think!

3 Tablets MUST BE 18 OR OLDER TO PURCHASE”

The rear label states:

**ZanziBarz**

***Dietary Supplement.***

***Directions:***

Take 3 tablets on an empty stomach. Do not exceed 3 tablets in 24 hours.

***Ingredients:***

Blue Lotus Extract 50:1 – 10mg per tablet.

Inactive Ingredients: Microcrystalline cellulose, Dicalcium phosphate, Magnesium stearate, Stearic acid, Silica.

***Warnings:***

Do not use if you are pregnant or nursing. Do not use if you have any history of mental illness. Do not operate vehicles or heavy machinery while using this product. Ask a health care professional about taking this product if you are on any prescription drugs. Do not take with alcohol. This product has not been evaluated by the FDA and is not intended to diagnose, treat, cure or prevent disease.  
Must be 18yrs or older to purchase”

#### Nitrous Oxide

46. Respondents also offer for sale and sell BestWhip 50 chargers, containing nitrous oxide. Nitrous oxide is commonly known by the slang term “laughing gas” or “Whip Its.” When it is inhaled, nitrous oxide has analgesic and euphoric effects on the user. Nitrous chargers can be used to make whip cream, but are frequently misused by people to get “high.”

47. According to the packaging on the box purchased, it contained fifty 8 gram cream chargers, each charger containing pure nitrous oxide (N<sub>2</sub>O). The label included instructions that the chargers are specially made for making whipped cream in Cream Whippers and were not for use for any other purpose, and cautioned “do not inhale.” The label misleadingly states that that nitrous oxide canisters may not be sold to persons under the age of 18; in New York State such canisters may not be sold for any reason to persons under age 21 and cannot be sold at retail. There was no address or contact information for the manufacturer or distributor.

48. Respondents offer for sale and sell whipped cream chargers that state on their packaging that they are not to be inhaled. Respondents sell these nitrous oxide chargers to retailers who also ask for accoutrements used for the inhalation of nitrous oxide (crackers); these accoutrements can only be used for one purpose - the inhalation of the nitrous gas.

49. Nitrous oxide can cause the user to have slurred speech, have difficulty in maintaining his or her balance or walking, be slow to respond to questions, be immune to any stimulus such as pain, loud noise, and speech, lapse into unconsciousness, or asphyxiate with no warning.

50. Respondents offer nitrous oxide and crackers for sale on their retail websites, and also sold nitrous oxide to Investigator Shelmidine along with a shipments of street drug alternative, smoking devices, wrapping papers, and other drug paraphernalia.

**FIRST CAUSE OF ACTION  
VIOLATION OF EXECUTIVE LAW 63(12)  
REPEATED ILLEGALITY  
VIOLATION OF AG. & MKTS. LAW § 194  
(FALSE LABELING)**

51. New York State Ag. & Mkts. § 194 proscribes false labels on commodities sold, offered or exposed for sale, or any false description respecting the number, quantity, weight or measure of such commodity.

52. The definition of a commodity as set forth in Ag. & Mkts § 191 includes, *inter alia*, non-prescription drugs. New York State law defines a drug as an “article[] (other than food) intended to affect the structure or any function of the body of man or animals.” NYS Education Law § 6802.

53. Title 1 of the New York State Codes, Rules and Regulations (NYCRR) defines a label as “any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer commodity or a package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package.” A label must identify the product’s identity (common or usual name, description, generic term), the name and address of the manufacturer, packer or distributor, and the weight or quantity of the product.

54. The following products offered and sold by Respondents to the retail public are intended to affect the function of the human body: Bali Diesel, Salvia Max (5X, 60X, 80X), Salvia Zone, Sativah Herbal Blend, KratoMonster, Vector Pills, ZanziBarz, and nitrous oxide.

They are thus classifiable as non-prescription drugs and are commodities under New York State Ag. & Mkts. § 191(4).

55. None of the above product labels satisfy the requirements for commodity labeling pursuant to the Ag. & Mkts. Law insofar as they are false labels and/or offer false descriptions of the contents. Further, the labels on all of these products (other than the Vector pills) fail to identify the name and address of the manufacturer, packer or distributor. None of the labels provide any information about the product's actual identity (common or usual name, description, generic term) and consequently constitute an additional infraction of the Ag & Mks. labeling requirements.

56. By selling, offering and exposing commodities for sale that do not satisfy New York State law regarding product labeling and by selling, offering and exposing falsely described commodities, Respondent has repeatedly and persistently violated the New York State Ag. & Mkts Law, and thereby violates Executive Law § 63(12), repeated illegality.

**SECOND CAUSE OF ACTION  
VIOLATION OF EXECUTIVE LAW § 63(12)  
REPEATED ILLEGALITY  
VIOLATION OF NYS EDUCATION LAW § 6815  
(MISBRANDING OF DRUGS)**

57. Misbranding of drugs is proscribed by the New York State Education Law.

58. Pursuant to the New York State Educ. Law § 6802, a drug is defined, in part, as “[a]rticles (other than food) intended to affect the structure or any function of the body of man or animals.”

59. The following products sold by Respondent are drugs pursuant New York State Educ. Law § 6802 since they constitute articles (other than food) intended to affect the structure

or any function of the body of man or animals: Bali Diesel, Salvia Max (5X, 60X, 80X), Salvia Zone, Sativah Herbal Blend, KratoMonster, Vector Pills, ZanziBarz, and nitrous oxide.

60. A drug is deemed to be misbranded pursuant to Educ. Law § 6815(2)(a)-(i) if:
- a. its labeling is false or misleading in any particular or, if in package form, it fails to bear a label containing the name of and place of business of the manufacturer, packer or distributor and an accurate statement of the quantity of the contents in terms of weight, measure or numerical count;
  - b. required information is not prominently and conspicuously placed on the label in such terms to render it to be likely read and understood by ordinary individuals under customary conditions and purchase of use;
  - c. its label fails to bear adequate directions for use;
  - d. it lacks adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users;
  - e. it as an imitation of another drug, or offered for sale under the name of another drug; or bears a copy, counterfeit, or colorable imitation of the trademark, label, container or identifying name or design of another drug; or
  - f. it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended or suggested in the labeling thereof.

61. In considering whether a drug is misbranded because it is misleading, the Court must consider (i) the representations made or suggested by the manufacturer, but also (ii) in view of those representations, the failure of the manufacturer to disclose material facts with respect to the consequences which may result from the customary or usual use of the drug. Educ. Law § 6802(13).

62. Bali Diesel™ is misbranded for the following reasons:
- a. It fails to bear a label containing the place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.

- c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
63. Salvia Max (all strengths) is misbranded for the following reasons:
- a. It fails to bear a label containing the place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.
  - c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
  - d. The product is dangerous to health when used in dosages suggested, and further lacks warnings against unsafe dosage or methods of use.
  - e. The drug is falsely labeled as having been produced by a company with a copyright protected name (“2009 High Life USA, LLC”) with “All rights reserved.”
64. Salvia Zone (all strengths) is misbranded for the following reasons:
- a. It fails to bear a label containing the place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.
  - c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
  - d. The product is dangerous to health when used in dosages suggested, and further lacks warnings against unsafe dosage or methods of use.
65. Sativah is misbranded for the following reasons:
- a. It fails to bear a label containing the place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.
  - c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
  - d. The product is dangerous to health when used in dosages suggested, and further lacks warnings against unsafe dosage or methods of use.

66. KratoMonster is misbranded for the following reasons:
- a. It fails to bear a label containing the place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.
  - c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
67. Vector is misbranded for the following reasons:
- a. The label fails to bear adequate directions for use.
  - b. The label fails to identify potential health effects that may result from customary and usual use of this drug.
  - c. The product is dangerous to health when used in dosages suggested, and further lacks warnings against unsafe dosage or methods of use.
  - d. The drug is falsely labeled with misleading information insofar as it is labeled "dietary supplement" although being offered as a street drug alternative, and containing banned substances.
  - e. The drug is falsely labeled as having a registered name ("Vector"), tagline ("Unbelievable Bliss"), and business name ("RedXDawn").
68. ZanziBarz is misbranded for the following reasons:
- a. It fails to bear a label containing the name of and place of business of the manufacturer, packer or distributor.
  - b. The label fails to bear adequate directions for use.
  - c. The label fails to identify potential health effects that may result from customary and usual use of this drug.
  - d. The drug is falsely labeled with misleading information insofar as it is labeled "dietary supplement" although being offered as a street drug alternative.
  - e. The drug mimics another drug by name and pill configuration, namely Xanax, a commonly abused anti-anxiety medication.

69. BestWhip is misbranded for the following reasons:
- a. The label fails to disclose an address for the manufacturer, distributor or packer; only the brand “Best Whip, Inc.” is identified.
  - b. Though the package contains the warning “Do not inhale! Misuse can be physically harmful and dangerous to your health,” the warning appears on the side of the box with other information regarding contents and can be easily overlooked. In addition, the warning fails to disclose that nitrous oxide can cause not only health problems, but also accidents and death.
  - c. The label also states that nitrous oxide chargers may not be sold to persons under 18. This statement is false and misleading; in New York State, whip cream chargers cannot be sold at retail without an exemption, and under no circumstances may a whip cream charger be sold to a person under age 21.

70. Educ. Law §§ 6811(9) and (11) makes it a misdemeanor to sell, or receive in commerce, a misbranded drug. The labels of the Bali Diesel, Salvia Max (5X, 60X, 80X), Salvia Zone, Sativah Herbal Blend, KratoMonster, Vector Pills, ZanziBarz, and BestWhip nitrous oxide are misbranded.

71. By offering for distribution, sale and/or selling misbranded drugs, Respondents have repeatedly and persistently violated Article 137 of the Educ. Law, Article 137, and thereby violates Executive Law § 63(12), repeated illegality.

**THIRD CAUSE OF ACTION  
VIOLATION OF EXECUTIVE LAW § 63(12)  
REPEATED ILLEGALITY  
VIOLATION OF NYS PUBLIC HEALTH LAW § 3380  
(ILLEGAL SALE OF NITROUS OXIDE)**

72. New York State Pub. Health Law § 3380 proscribes selling nitrous oxide to the public for the purpose of intoxication.

73. Pub. Health Law § 3380(5)(b) prohibits any person from selling any canister or other container of nitrous oxide unless granted an exemption by the Commissioner of the State Health Department.

74. Public Health Law § 3380(5)(f) states that the Commissioner may, upon the application of a seller of a product containing nitrous oxide and intended for sale at retail, authorize the sale if there is no evidence of substantial misuse of the product, and if the seller, inter alia, educates retail businesses which sell the product of the dangers of nitrous oxide and the need to monitor its sale, and prevents the sale of the product to any person, firm or corporation who or which sells drug-related paraphernalia.

75. Pursuant to the Pub. Health Law § 3380(5)(f), there can be no exemptions for retail sale of nitrous oxide to the public.

76. Notwithstanding, to the extent that Pub. Health Law § 3380(5)(f) allows a seller to apply for an exemption to sell nitrous oxide to the public at retail, Respondents are not eligible for such an exemption since he sells drug-related paraphernalia and other items used for the inhalation of nitrous oxide in his retail store. Pub. Health Law § 3380(5)(f)(v).

77. Respondents do not hold an exemption to sell nitrous oxide.

78. Respondents sell cases of nitrous oxide chargers at retail to the public for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system.

79. Respondents sell cases of nitrous oxide to retail businesses without educating said retail businesses which sell the product of the dangers of nitrous oxide and the need to monitor its sale, and further sells to retail businesses which sells drug-related paraphernalia

80. By offering for sale and/or selling nitrous oxide for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction, or dulling of the brain or nervous system, Respondents repeatedly and persistently violated the New York Public Health Law.

81. By offer for sale and/or selling nitrous oxide to a retail business in violation of the Public Health Law as described, Respondents have repeatedly and persistently violated the New York Public Health Law.

82. Repeated violation of the Public Health Law constitutes a repeated illegality in violation of section 63(12) of the Executive Law.

**FOURTH CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW 63(12)  
FRAUD AND ILLEGALITY  
VIOLATIONS OF GBL § 349  
(DECEPTIVE ACTS AND PRACTICES)**

83. GBL § 349 declares unlawful any deceptive acts or practices in the conduct of any business, trade or commerce in this state.

84. Respondents have engaged in deceptive acts and practices including the following: (1) offering for sale, selling and otherwise placing into commerce mislabeled and/or misbranded products for distribution for consumer use; (2) offering for sale and selling and otherwise placing into commerce mislabeled and/or misbranded products making it impossible for customers to make an informed decision as to the intended use of the products, and the safety and health-related risks associated with the products; (3) deceptively marketing and promoting illegal products as legal, such as the nitrous oxide products; (4) repeatedly placing into commerce for consumer use products designed for ingestion which are sold without disclosure of product ingredients, manufacturer information, dietary information, and/or other warnings; and

(5) encouraging and promoting the use of products that are specifically labeled “not for human consumption” for ingestion and/or inhalation by consumers.

85. As set forth above, Respondents offered for sale mislabeled and misbranded drugs.

86. By offering for sale and/or selling mislabeled and misbranded drugs, Respondents have repeatedly and persistently violated GBL § 349.

**FIFTH CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12):  
FRAUD**

87. Executive Law § 63(12) defines “fraud” or “fraudulent” to include any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense or unconscionable contractual provisions.

88. By offering for sale, and/or selling mislabeled and misbranded drugs, Respondents have repeatedly and persistently engaged in fraud in violation of Executive Law § 63(12).

**WHEREFORE**, the People of the State of New York, pursuant to the powers vested by New York State Executive Law § 63(12) respectfully request judgment as follows:

- a permanently enjoining Respondents, and their agents, trustees, servants, employees, successors, heirs and assigns, or any other person under their direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device through which they may now or hereafter act or conduct business (“Respondents”), from offering for sale and/or selling mislabeled drugs in violation of Ag. & Mkts. Law § 194;
- b. permanently enjoining Respondents from offering for sale and/or selling misbranded drugs in violation of Educ. Law §§ 6802 and 6815;
- c. permanently enjoining Respondents from misleadingly offering for sale and/or selling products as designer drugs or other street drug alternatives, including but not limited to encouraging ingestion of products that are labeled or specifically designated “not for human consumption;”

- d. permanently enjoining Respondents from offering for sale and selling nitrous oxide to the public in violation of Public Health Law § 3380;
- e. permanently enjoining Respondents from engaging in the fraudulent, deceptive and illegal practices alleged in the petition in violation of GBL § 349;
- f. requiring that Respondents comply with any and all state, local or federal labeling requirements;
- g. requiring Respondents to prepare an accounting of all commodities sold, or offered for sale, from January 1, 2012 to November 15, 2014 including the (i) name of the product, (ii) the manufacturer and/or distributor of the product, (iii) a description of the product, (iv) the price of the product, and (iv) the number units of the product sold;
- h. pursuant to GBL § 350-d, imposing a civil penalty of \$5,000 for each deceptive act committed by Respondents;
- i. pursuant to CPLR § 8303(a)(6), granting costs to the State of New York of \$2,000; and
- j. for such other and further relief as the Court deems just and proper.

Dated: December \_\_, 2014

ERIC T. SCHNEIDERMAN  
Attorney General of the State of New York  
Attorney for Petitioner

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**VERIFICATION**

STATE OF NEW YORK     )

ss:

COUNTY OF JEFFERSON )

Deanna R. Nelson, being duly sworn, deposes and says: She is an Assistant Attorney General In Charge in the Watertown Regional Office of Eric T. Schneiderman, Attorney General of the State of New York, and is duly authorized to make this verification.

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

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

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DEANNA R. NELSON  
Assistant Attorney General In Charge

Sworn to before me this  
\_\_\_ day of December 2014.

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Notary Public