

17th JUDICIAL DISTRICT COURT 1100 Judicial Center Drive Brighton, CO 80601	DATE FILED November 21, 2024 9:49 AM FILING ID: 7E44D7345289E CASE NUMBER: 2024CV31760
STATE OF COLORADO <i>ex rel.</i> PHILIP J. WEISER, ATTORNEY GENERAL,  Plaintiff,  v.  DANE SNOVER, and FOXHOLE FARMS LLC,  Defendants.	▲ COURT USE ONLY ▲
PHILIP J. WEISER, Attorney General LAUREN DICKEY, 45773* First Assistant Attorney General NATHAN MATTISON, 59034* RYAN MILLER, 59026* Assistant Attorneys General Ralph L. Carr Judicial Center 1300 Broadway, 10th Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040 * <i>Counsel of Record</i>	Case No.:  Div.:
<b>COMPLAINT</b>	

Plaintiff, the State of Colorado, upon relation of Philip J. Weiser, Attorney General, brings this action pursuant to the Colorado Consumer Protection Act, C.R.S §§ 6-1-101 *et seq.* (“CCPA”) and alleges as follows against the Defendants:

**INTRODUCTION**

1. The United States has a long history of regulating consumable products generated from the plant *Cannabis sativa L.* (“Cannabis”). From 2018 through the present, there have been significant developments in how both Federal and State governments regulate Cannabis. Since 2018, many Cannabis vendors have attempted to improperly capitalize on the evolving legal and regulatory landscape by purporting

to sell a new wave of products falling outside of existing regulatory structures. It is thus essential for a proper regulatory and consumer protection system to monitor and enforce against newer Cannabis products sold from or into Colorado.

2. Colorado has long been a pioneer in Cannabis regulation, committed to safety above all, while supporting a robust, above-board market in medical and recreational sales. However, after the changes in Federal and State laws in 2018, some Cannabis companies have sought to skirt regulations and taxes, either by making unregulated Cannabis sales or by selling highly potent and concentrated products in a manner that attempts to evade Colorado's oversight system.

3. Colorado resident Dane Snover created one of these Cannabis companies in 2019. Under Dane Snover's control, Defendants' company represents itself to be a Cannabis cultivator, manufacturer, and distributor of finished Cannabis products. Defendants make a number of representations pertaining to potency, concentration, and ingredients of their Cannabis products.

4. But tests have shown that, contrary to their representations, Defendants sell numerous products that are highly potent and psychoactive when consumed and do not contain the advertised ingredients. Some of the most serious instances of these misrepresentations include the mislabeling of consumable products containing highly concentrated Cannabis extracts, pesticides, and harmful solvent chemicals.

5. Defendants' apparent lack of proper standard operating procedures concerning product testing and quality control, coupled with their sloppy or misleading weights and measures, endangers public health. Their products can have significant legal and employment implications for consumers, as well as dramatic negative health effects. Even adults with a tolerance to Cannabis can be put in danger by consuming these products, as they can unexpectedly become impaired in a precarious situation, such as while driving, if they are taking a product that is mislabeled, potentially putting others at serious risk as well.

6. Compounding these problems, Defendants sell their products on the internet without proper age-verification systems in place, thus exposing minors who purchase their products to serious risks of harm.

7. As set forth in detail below, through the course of their business selling Cannabis products in (and from) Colorado, Defendants Dane Snover and Foxhole Farms LLC (collectively, "Defendants"), have put consumers at serious risk and have violated the CCPA by engaging in the following false, misleading, deceptive, and unfair practices that have threatened the health and welfare of the public by:

- a. Misrepresenting the true potency, concentration, and ingredients of chemically converted cannabinoids, which can lead to severe unexpected intoxication and impairment, absent any disclosure of those risks;
- b. Failing to use any adequate or reasonable age-verification system, thus allowing minors to order and receive delivery of high concentration psychoactive Cannabis products;
- c. Selling edible “copycat” Cannabis products that resemble and/or are identical to popular children’s candy and snacks without labeling them as containing Cannabis;
- d. Falsely and deceptively advertising certain products as “industrial hemp” when these products were in fact “marijuana”;
- e. Failing to obtain required permits or licensure for the cultivation of industrial hemp or the sale of finished Cannabis products, misrepresenting expired Cannabis cultivation licenses as current and valid, and improperly altering or amending expired Cannabis cultivation licenses; and
- f. Selling Cannabis products into the State of Colorado that are prohibited due to containing excessive amounts of THC.

8. Consumers must be fully and accurately informed about what they are purchasing, and Cannabis products sold to consumers must be safe. The Attorney General thus brings this action to enjoin Defendants from engaging in such false, misleading, deceptive, and unfair conduct in violation of the CCPA, and to enjoin Defendants from putting consumers at risk through this conduct.

### **PARTIES**

9. Philip J. Weiser is the duly elected Attorney General of the State of Colorado and is authorized to enforce the CCPA. *See* C.R.S. § 6-1-103. The Attorney General has authority under the CCPA to bring enforcement actions to prevent and enjoin unfair or deceptive trade practices in the Cannabis industry. C.R.S. § 6-1-105(1)(sss).

10. Defendant Dane Snover is a Colorado resident who resides in Fruita, Colorado, and on information and belief is the owner of Defendant Foxhole Farms, LLC (“Foxhole”).

11. Defendant Dane Snover has been personally involved in each and every alleged violation described herein.

12. Defendant Foxhole is a limited liability company located in Loma, Colorado. Dane Snover filed Articles of Organization on behalf of Foxhole with the Colorado Secretary of State on July 18, 2021, and is Foxhole’s registered agent. Dane Snover’s personal Gmail email account is also listed on the front page of the Foxhole’s website.

### **JURISDICTION AND VENUE**

13. Pursuant to Colo. Rev. Stat. § 6-1-103, actions instituted under the CCPA may be brought in the county where an alleged deceptive trade practice occurred or where any portion of a transaction involving an alleged deceptive trade practice occurred, or in the county where the principal place of business of any defendant is located, or in the county in which any defendant resides.

14. The violations alleged in this Complaint occurred throughout the State of Colorado. Three of the sales of Defendants’ products, which gave rise to the deceptive trade practices alleged herein, were delivered into Broomfield, Colorado. Therefore, venue is proper in the 17th Judicial District Court, pursuant to C.R.S. § 6-1-103 and Colo. R. Civ. P. 98. *See* C.R.S. § 6-1-103 (the Attorney General may bring a CCPA action in the county where “any portion of a transaction involving a deceptive trade practice occurred”).

### **RELEVANT TIMES**

15. The conduct that gives rise to the State’s claims began no later than 2021 and is ongoing through the present.

16. This action is timely filed because it is brought within three years of the date on which the last in a series of Defendants’ false, misleading, and/or deceptive acts or practices occurred, and the described acts or practices are ongoing. *See* C.R.S. § 6-1-115.

### **FACTUAL ALLEGATIONS**

#### **I. The Science of Cannabis and its Regulatory Framework.**

17. Plaintiff incorporates herein by reference all allegations set forth above.

**A. Cannabinoid variants and their treatment under federal law.**

18. Defendants’ conduct takes place against the backdrop of a complex legal and regulatory framework.

19. Cannabis products – whether used for recreational, medical, or industrial purposes – all come from the same plant: *Cannabis sativa L.* (“Cannabis”).

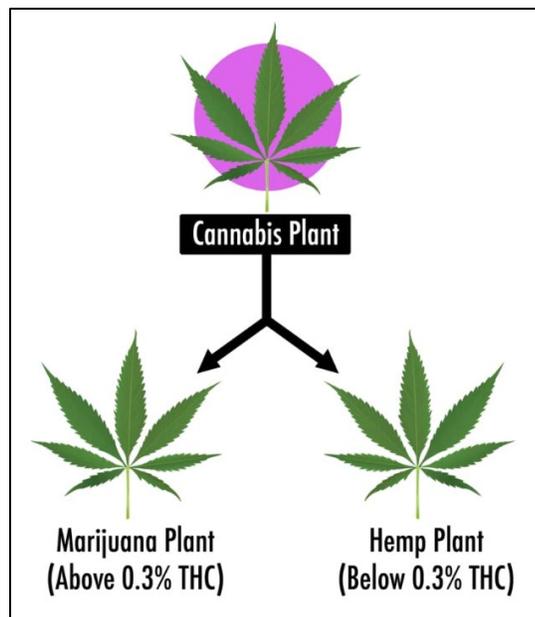
20. Cannabinoids are the active chemicals in Cannabis. The Cannabis plant contains more than 400 chemical entities, including over 60 known cannabinoids, such as multiple tetrahydrocannabinol (“THC”) compounds and cannabidiol (“CBD”).

21. Delta-9-tetrahydrocannabinol (“Delta-9 THC”) is the primary psychoactive cannabinoid found in regulated marijuana.

22. In 2018, Congress enacted the federal Agriculture Improvement Act of 2018 (the “2018 Farm Bill”).

23. Pursuant to the 2018 Farm Bill, Cannabis that contains more than 0.3% Delta-9 THC on a dry weight basis is considered “marijuana,” and is a Schedule I substance under the federal Controlled Substances Act (“CSA”).

24. By contrast, the 2018 Farm Bill defined “industrial hemp” as any part of the Cannabis plant with a Delta-9 THC concentration of *no more than* 0.3% on a dry weight basis:



25. The 2018 Farm Bill specifically exempted “industrial hemp” from the CSA and permits the manufacture and sale of consumable industrial hemp products in limited circumstances.

26. While the threshold of 0.3% Delta-9 THC may seem small, when applied on a “dry weight” basis to all ingredients contained in a product, 0.3% can amount to hundreds of milligrams of Delta-9 THC in hemp-derived products, such as chocolate bars, gummies, and cookies. For example, a 50-gram chocolate bar at 0.3% Delta-9 THC contains around 150 milligrams of Delta-9 THC, which is more than 15 times the standard 10 milligram Delta-9 THC dose found in Colorado-regulated marijuana products.

27. Utilizing the 2018 Farm Bill’s threshold allowance of *no more than* 0.3% Delta 9-THC on a “dry weight” basis, industrial hemp companies have attempted to evade protective regulations and relevant taxes required for regulated marijuana edibles. In particular, companies have sold products branded as “industrial hemp” that actually contain far more Delta-9 THC – and thus, are more psychoactive than – the same types of marijuana products sold in Colorado’s recreational dispensaries.

28. In contrast to Delta-9 THC, certain cannabinoids are often considered “non-intoxicating” or non-psychoactive. Examples include CBD, cannabidiolic acid (“CBDA”), cannabigerol (“CBG”), cannabigerolic acid (“CBGA”), and cannabichromene (“CBC”). These types of cannabinoids are often sought out by consumers for various non-intoxicating effects distinct from the psychoactive effects of Delta 9-THC or other highly intoxicating cannabinoids.

29. However, “non-intoxicating” cannabinoids can be modified to become “intoxicating.” For example, CBD can be chemically converted to create other cannabinoid variants that may be intoxicating when consumed, such as Delta-8 tetrahydrocannabinol (“Delta-8 THC”), Delta-10 tetrahydrocannabinol (“Delta-10 THC”), hexahydrocannabinol (“HHC”), hexahydrocannabinol acetate (“HHC-O”), and tetrahydrocannabiphorol (“THC-P”).

30. These cannabinoid variants can be just as intoxicating or psychoactive as marijuana. THC-P, one of the newer chemically converted cannabinoids, has been reported as being 5 to 10 times stronger than Delta-9 THC and is generally regarded as the strongest of these intoxicating cannabinoids.

31. Many consumers may seek to avoid consuming “marijuana” because of its status as a controlled substance under the CSA (in certain quantities), and the associated legal, employment, and other consequences of possessing and consuming marijuana. Accordingly, these consumers may choose to purchase and consume Delta-8 THC, Delta-10 THC, HHC, HHC-O, or THC-P products instead. But as

explained above and below, absent appropriate disclosure and safety measures, these products have the potential to be as (or more) intoxicating than marijuana and can present similar risks to consumers.

## **B. Cannabis Enforcement in the State of Colorado.**

32. Several agencies regulate and/or enforce the laws relating to Cannabis products in Colorado.

33. The Colorado Department of Agriculture (“CDA”) is tasked with licensing and regulating aspects of state-level commercial cultivation of industrial hemp in Colorado. To legally cultivate industrial hemp in Colorado, cultivators must obtain, maintain, and renew a Commercial Hemp Registration with the CDA on an annual basis. They must also adhere to strict cultivation and testing reporting requirements that govern the commercial cultivation of industrial hemp, which also apply through application of the 2018 Farm Bill and federal regulations.

34. The Colorado Marijuana Enforcement Division (“MED”) regulates certain aspects of marijuana cultivation and the manufacture, production, packaging, and labeling of consumable marijuana products.

35. The Colorado Department of Public Health and Environment (“CDPHE”) regulates aspects of the manufacture, production, packaging, and labeling of consumable industrial hemp products. CDPHE regulations apply, for example, to products that are manufactured from industrial hemp cultivated by CDA-licensed cultivators.

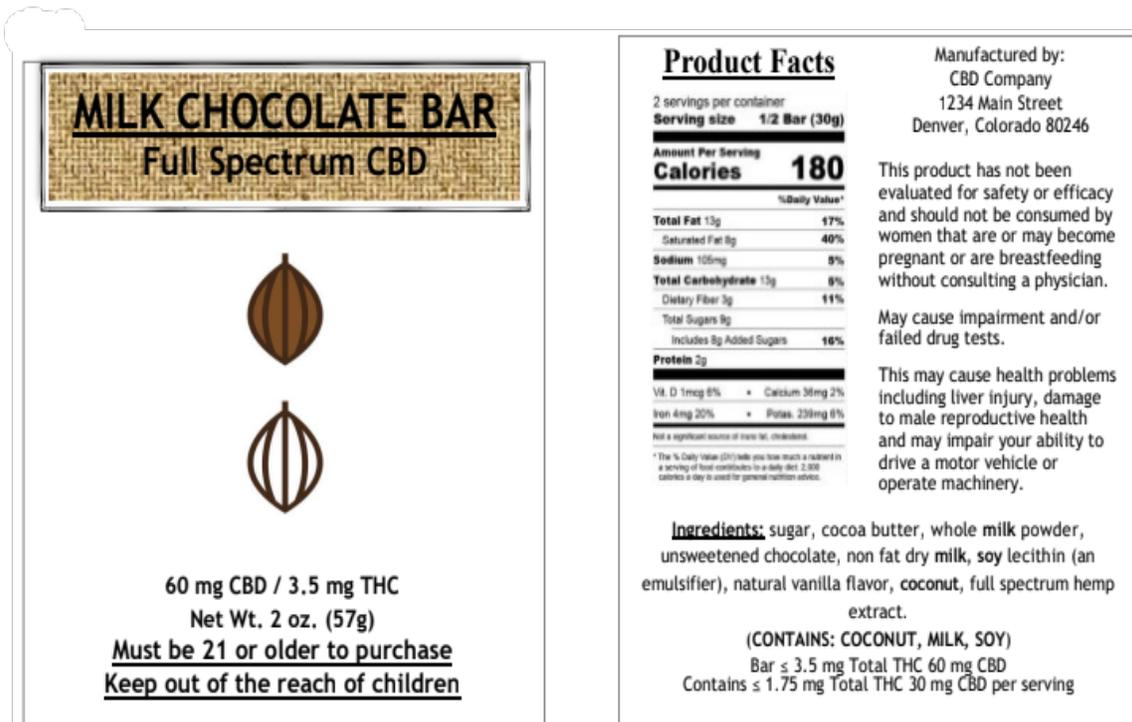
36. In January 2024, CDPHE regulations reclassified many of the cannabinoids sold by hemp producers (such as Delta-9 THC, Delta-8 THC, HHC, HHC-O, and THC-P) as “Intoxicating Cannabinoids.” Intoxicating Cannabinoids cannot be sold directly to consumers in the state of Colorado and can only be sold outside the state of Colorado by specific licensure with CDPHE as a “Safe Harbor” producer.

37. CDPHE regulations<sup>1</sup> require specific information to be disclosed on the principal display panel of all hemp-derived Cannabis products, pictured in the below diagram, which is provided on the CDPHE Website<sup>2</sup> and includes a sample picture:

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<sup>1</sup> 6 CCR 1010-24.7(E)

<sup>2</sup> <https://cdphe.colorado.gov/hemp-food#Resources>



38. At all times relevant to this Complaint, in order to comply with CDPHE’s regulations and the 2018 Farm Bill, a manufacturer, distributor, or seller of a consumable industrial hemp product must test the product at a CDPHE-certified hemp testing laboratory to confirm the product contains 0.3% or less Delta-9 THC on a dry weight basis (which again, is the maximum threshold to be considered “industrial hemp” and not “marijuana”) before selling the product to a consumer.

39. There are currently 12 CDPHE-certified hemp laboratories.

40. Testing laboratories issue results via a Certificate of Analysis (“COA”) report.

41. Typically, a COA for a Cannabis product shows cannabinoid potency or concentration of common cannabinoids, generally highlighting the Delta-9 THC content prominently, but also showing potency or concentration of other cannabinoids such as Delta-8 THC, Delta-10 THC, HHC, HHC-O, or THC-P. If a full-panel screening is completed a COA can also detect pesticides, heavy metals, toxins, mold, moisture content, and filth.

42. On their face, the results of a full-panel COA issued by a Cannabis testing laboratory for either a regulated marijuana or an industrial hemp product look identical to a consumer.

43. In principle, consumers have access to COAs before purchasing or consuming industrial hemp products, because COAs are generally published on sellers' websites and/or are provided within the physical packaging of industrial hemp products delivered to consumers.

44. Thus, consumers have the opportunity to rely on industrial hemp products' COAs to ensure that what they are purchasing is safe, and that the product contains the specific concentration or potency of the cannabinoids the consumer is seeking.

45. Such information is critical to consumers purchasing Cannabis products. Consumers who purchase Cannabis products need to know what they are consuming for a host of reasons, including staying compliant with the law, maintaining employment, preventing interactions with existing medications, and ensuring safety during activities like driving.

46. Parallel to the MED, CDA, and CDPHE's regulations, the Colorado Attorney General has authority to enforce Colorado law against Cannabis companies engaged in unfair or deceptive trade practices, including practices relating to Cannabis products like industrial hemp. *See* C.R.S. § 6-1-105(1)(sss).

47. The Colorado Attorney General is empowered to enforce the CCPA against sellers of Cannabis products to ensure (among other things) that consumers are fully and accurately informed about the products they are consuming, and that companies are fairly engaging with consumers consistent with Colorado's laws and policies.

## **II. Defendants deceptively market and sell Cannabis products by misrepresenting products' cannabinoid makeup.**

48. Plaintiff incorporates herein by reference all allegations set forth above.

49. Defendants cultivate, produce, and/or sell Cannabis products under the Foxhole Hemp Company brand (hereinafter "Foxhole").

50. Until on or around October 2024, all Foxhole sales were made through Defendants' website at foxholefarmco.com. At that time, the website url changed to foxholefarms.com. Defendants have accepted, or are accepting, orders from each of these urls (collectively, the "Foxhole Website").

51. Defendants operate and maintain the Foxhole Website.

52. All sales occurring from the Foxhole Website appear to occur under the direct control of Defendant Dane Snover.

53. Through the Foxhole Website, Defendants market and sell a multitude of Cannabis products – some containing the “non-intoxicating” cannabinoids CBD, CBC and CBG, and others containing “intoxicating” cannabinoids such as Delta-9 THC, Delta-8 THC, HHC, HHC-O, and tetrahydrocannabinolic acid (“THC-A”).

54. Defendants have sold Foxhole products in many forms, including balms, cookies, lollipops, gummies, drinks, pre-rolled joints, and vape cartridges.

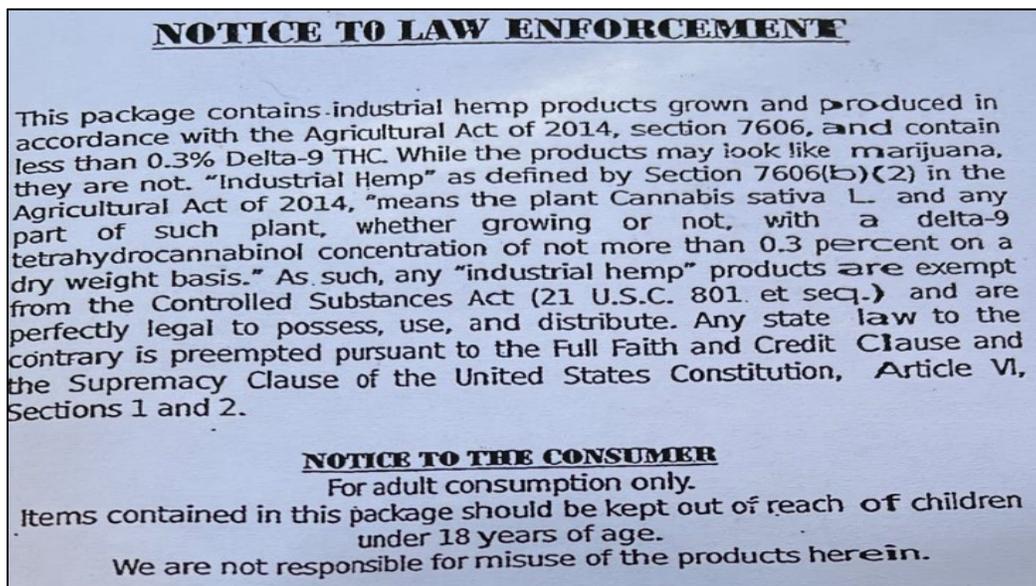
### **A. The Attorney General’s Investigation**

55. On March 11, 2024, June 4, 2024, and July 15, 2024, an investigator with the Colorado Attorney General’s office, L. Lopez (“Investigator Lopez”), under the supervision of consumer protection attorneys, made three undercover purchases of Cannabis products on the Foxhole Website that were either represented to be industrial hemp products or did not disclose whether they were industrial hemp or marijuana products.

#### **1. First Undercover Buy**

56. Investigator Lopez conducted the first undercover purchase from the Foxhole Website on March 11, 2024. Among other items, Investigator Lopez purchased: (1) “15mg HHC-O/10mg D9” gummies; (2) “1 ml 96% HHC vape carts”; (3) THC-A “Star Dust”; and (4) “Fully legal vegan Delta 9 Gummy Stars.”

57. The products purchased in the first undercover buy were delivered to Investigator Lopez in a single package with a purported “Notice to Law Enforcement” document, stating that its contents contained less than 0.3% Delta-9 THC:



58. The package also included what appeared to be a CDA Industrial Hemp Registration form issued to Foxhole Farms LLC on July 20, 2021:

**COLORADO**  
Department of Agriculture  
1600 Sherman Parkway, Broomfield, CO 80021  
303.869.9050 FX 303.466.2860  
colorado.gov/ag

**DANE SNOVER**  
1365 14 Rd  
Loma, CO 81524

**IF STOPPED PLEASE CALL DANE SNOVER AT (970)216-7390**

THIS DOCUMENT IS NOT TRANSFERABLE

**FOXHOLE FARMS LLC**  
1365 14 Road  
Loma, Colorado 81524

**INDUSTRIAL HEMP REGISTRATION - #08-103953** Issued

According to § 35-61-102, C.R.S., the above-named is authorized to act as: 7/20/2021

**Commercial Industrial Hemp Registration**

Outdoor Acres	3.00
Indoor Square Feet	0

Kate Greenberg  
Commissioner of Agriculture

7/20/2021  
Print Date

59. The statute referenced on this form, C.R.S. § 35-61-102, provides that persons or entities who are properly registered under C.R.S. § 35-61-104 may engage in industrial hemp cultivation for commercial purposes. This CDA form purports to show that Foxhole Farms LLC is registered and thus authorized to cultivate industrial hemp. This form (even if it was actually issued to Foxhole Farms) was improperly edited to add the following unauthorized statement: “IF STOPPED PLEASE CALL DANE SNOVER AT (970) 216-7390.”

60. After receiving the Foxhole products, Investigator Lopez delivered all the items to a CDPHE-certified hemp testing facility for laboratory analysis.

61. None of the products received were in child-proof containers or contained any marking that they contained THC or other intoxicating cannabinoids. The packaging also failed to adhere to CDPHE regulations, which require certain disclosures and the listing of all ingredients, including the amount of each cannabinoid contained in the product.

62. The CDPHE-certified lab provided the Foxhole test results by issuing a certified COA for each separate Cannabis product, verifiable by a QR code included therein to prevent alteration.

63. Of the six products that were purchased, three contained more than 0.3% Delta-9 THC:

- “HHC Vape Cart” was 40.189% Delta-9 THC, which is **more than 133 times** the limit for a product to be considered industrial hemp and not marijuana;
- “HHC-O / D9 Gummies” contained .706% Delta-9 THC; and
- “Star Dust” contained .4881% Delta-9 THC.

64. Consumption of the amounts of Delta-9 THC contained in these products could easily impair a consumer, cause them to fail a drug test, and/or would be a controlled substance under the CSA.

65. Of the six products purchased, five made misrepresentations to consumers about what they contained as ingredients:

- “HHC Vape Cart” and “Star Dust” were presented as being under 0.3% Delta-9 THC based on the “Notice to Law Enforcement” included in the package, but as stated above, both were 40.189% and .4881% Delta-9 THC, respectively;
- “HHC-O / D9 Gummies” were advertised as containing 15mg HHC-O and 10mg Delta-9 THC per gummy, but actually contained 47.46mg and 7.06mg, respectively. This product was also represented to contain less than 0.3% Delta-9 THC based on the “Notice to Law Enforcement” included in the package but, as stated above, actually contained .706% Delta-9 THC;

- “Fully Vegan Delta 9 Gummy Stars” were advertised as containing 18mg of Delta-9 THC in each gummy but contained 7.4mg in each; and
- “Delta 9 Sugar Syrup (Cherry)” was advertised as containing 500mg Delta-9 THC in the bottle, but actually contained 366mg.

66. One of the products, the HHC vape carts, failed the pesticide testing panel, as the test results showed a substantial amount of three pesticides: Boscalid, Myclobutanil, and Fluopyram. These pesticides are prohibited under CDPHE regulations from being contained in any finished hemp products due to known or believed dangers of heating or vaporizing and inhalation of those chemicals. 6 CCR 1010-24.7(D)(6)(c).

67. Foxhole did not disclose to consumers that its products contained prohibited pesticides.

68. By failing to provide truthful information regarding the concentration and ingredients of their products, and by failing to disclose that one of their products contained prohibited and potentially harmful pesticides, Defendants knowingly or recklessly put consumers at serious risk of a range of physical and legal harms.

## **2. Second Undercover Buy**

69. For the second undercover purchase, Investigator Lopez purchased the following products from the Foxhole Website: (1) “Slurry Bomber THCa flower”; (2) “D-8 Hash Cube”; (3) “Mind Warp grind” THC-A flower; (4) “D-8/CBG/CBC dab mix” concentrate; (5) “Liquid Diamond THCa cart”; (6) “Lemon Dream Kush” Delta-8 Distillate; (7) “Delta 10 THC distillate”; and (8) “Juicy Grapes thca” pre-rolled joints. The package delivered to Investigator Lopez also contained “Fox Venom” shake as a bonus item, which she did not order.

70. The second undercover buy package delivered to Investigator Lopez contained the same “Notice to Law Enforcement” document as the first undercover buy package, stating that the contents of the package contained less than 0.3% Delta-9 THC and were not marijuana.

71. After receiving the Foxhole products from the second undercover purchase, Investigator Lopez delivered them to the same CDPHE-certified lab for laboratory analysis.

72. Again, none of the Foxhole products Investigator Lopez received in the second undercover purchase were in child-proof containers or packaging, nor marked with a “THC” or “Cannabis” label.

73. The CDPHE-certified lab provided the Foxhole products' test results by issuing a certified COA for each separate Cannabis product, verifiable by a QR code included therein to prevent alteration.

74. Of the 10 products that were delivered, eight would be considered "marijuana" as they contained more than 0.3% Delta-9 THC:

- "Liquid Diamond THCa Cart" contained 74.985% Delta-9 THC, ***more than 249*** times the amount for a product to be considered industrial hemp and not marijuana;
- "Lemon Dream Kush D8 Vape Distillate" was 52.148% Delta-9 THC, ***more than 173 times*** the amount for a product to be considered industrial hemp and not marijuana;
- "D-8 Hash Cube" was 6.676% Delta-9 THC;
- "D-8/CBG/CBC Dab Mix" was 5.199% Delta-9 THC;
- "Mind Warp" was 1.95% Delta-9 THC;
- "Juicy Grapes" Pre-Roll was 1.18% Delta-9 THC;
- "Fox Venom" was 1.16% Delta-9 THC; and
- "Slurry Bomber THCa" flower was .346% Delta-9 THC.

75. The products in this second undercover purchase, like in the first undercover purchase, also contained Delta-9 THC in amounts that could easily impair consumers, cause them to fail drug tests, and would be considered controlled substances under the CSA.

76. Further, of the ten products purchased, nine misrepresented to consumers what they contained as ingredients:

- "Mind Warp Grind", "Liquid Diamond THCa" cart, "Lemon Dream Kush D8" Vape Distillate, "Juicy Grapes" pre-roll, and "Fox Venom" were presented as being under 0.3% Delta-9 THC based on the "Notice to Law Enforcement" included in the package, as the product page did not include any COAs, but as stated above, all five contained 1.95%, 74.985%, 52.148%, 1.18%, and 1.16% Delta-9 THC, respectively;

- “Slurry Bomber THCa” flower was advertised as containing 0% Delta-9 THC, based on the COA included on the Foxhole Website product page, but it actually contained .346% Delta-9 THC;
- “D-8 Hash Cube” was advertised as containing .15% Delta-9 THC, based on the COA included on the Foxhole Website product page, but it actually contained 6.676% Delta-9 THC;
- “D-8/CBG/CBC Dab Mix” was advertised as containing .15% Delta-9 THC, based on the COA included on the Foxhole Website product page, but it actually contained 5.199% Delta-9 THC; and
- “Delta 10 distillate” was advertised as containing 90% Delta-10 THC, based on the item description on the Foxhole Website product page, but it actually contained 0% Delta-10 THC.

77. One of the products, “D-8/CBG/CBC dab mix,” failed the pesticide testing panel, as the COA for that product reflected the presence of a substantial amount of Boscalid, Myclobutanil, and Cyhalothrin-Lambda, all of which are disallowed under CDPHE regulations. Again, Foxhole did not disclose to consumers that its products contained prohibited pesticides.

78. By failing to provide truthful information regarding these products’ potencies, concentrations, and their ingredients, Defendants knowingly or recklessly put consumers at serious risk of a range of physical and legal harms.

### **3. Third Undercover Buy**

79. For the third undercover buy, Investigator Lopez purchased: (1) “150mg Delta 10 gummies,” (2) “Delta 9 full size cookies,” (3) “15mg D9/1mg THCP Cherries,” (4) “15mg CBN gummies,” (5) “New d9/CBN gummy blends,” (6) “D9/CBG gummy stars,” and (7) “Super High Gummy.”

80. Investigator Lopez did not receive delivery of these products within two weeks. Accordingly, she emailed Dane Snover’s personal email address listed on the front page of the Foxhole Website regarding the status of the order. Dane Snover responded minutes later via his personal email address explaining the delay and stating that the order should be shipped soon.

81. Unlike the previous two undercover buy packages delivered to Investigator Lopez, the third undercover buy package did not contain a “Notice to Law Enforcement” document stating that its contents contained less than 0.3% Delta-

9 THC. However, like the previous two buys, none of the products received were in child-proof containers, contained any marking that they contained THC or other intoxicating cannabinoids, and the packaging failed to adhere to CDPHE and/or MED regulations requiring certain disclosures and the listing of all ingredients, as well as the amount of each cannabinoid contained in the product.

82. After receiving the Foxhole products from this third undercover purchase, Investigator Lopez again brought them to the same CDPHE-certified lab for laboratory analysis and to receive a certified COA for each separate product.

83. The CDPHE-certified lab provided the results of the testing of the products in third undercover purchases by issuing a certified COA for each separate Cannabis product, verifiable by a QR code included therein to prevent alteration.

84. Of the seven products purchased, all seven misrepresented to consumers what they contained:

- “150mg Delta 10 gummies” were advertised as containing 150mg of Delta-10 THC, based on the product’s name, but they contained 0mg of Delta-10 THC;
- “30mg Delta 9 full size cookies” were advertised as containing 30mg of Delta-9 THC, based on the product’s name, but they only contained 23.4mg Delta-9 THC, 22% less;
- “15mg D9 / 1 mg THCP Cherries” were advertised as containing 15mg of Delta-9 THC and 1 mg of THC-P, based on the product’s name, but they only contained 10mg Delta-9 THC, 33% less, and no THC-P;
- “15mg CBN gummies” were advertised as containing 15mg of CBN, based on the product’s name, but they contained 23mg CBN, 53% more;
- “D9/CBN gummy stars” were advertised as containing 20mg of Delta-9 THC and 50mg of CBN, based on the product description on the Foxhole Website, but they only contained 2mg Delta-9 THC, 90% less, and .6mg CBN, 99% less;
- “D9/CBG gummy stars” were advertised as containing 20mg of Delta-9 THC and 100mg of CBG based on the product description on the Foxhole Website, but they only contained 13.8mg Delta-9 THC, 31% less, and 18.6mg CBG, 81% less; and

- “Super High Gummy” was advertised as containing 350mg of Delta-8 THC and 25mg of Delta-9 THC, based on the product description on the Foxhole Website, but it contained 242mg Delta-8 THC, 30% less, and 33mg Delta-9 THC, 32% more.

85. Five of the seven edibles purchased and tested in the third undercover buy contained more Delta-9 THC than products that are sold in regulated marijuana dispensaries: 150mg Delta 10 gummies, 30mg Delta 9 full size cookies, 15mg D9 / 1 mg THCP Cherries, D9/CBG gummy stars, and Super High Gummy.

86. One of the products, “15mg CBN gummies,” also tested positive for extremely high levels of the solvent gas Benzene. Benzene is expressly prohibited under CDPHE regulations for use by any industrial hemp manufacturers as a solvent due to potential dangers of consuming that specific chemical. 6 CCR 1010-24.7(D)(6)(e). Once again, Foxhole did not disclose to consumers that its product contained Benzene.

87. In sum, Foxhole misrepresented the nature or quantity of cannabinoids contained in its products in 21 out of the 23 products purchased and tested in the three undercover buys.

88. Even for the subset of products Defendants accurately described as containing less than .3% Delta-9 THC on a dry weight basis, Defendants still misrepresented the actual milligrams of various cannabinoids contained in those products.

89. And, as shown above, Defendants’ products frequently contained more – sometimes far more – Delta-9 THC than Defendants represented. These misrepresentations are dangerous: consumers purchasing Defendants’ Cannabis products could easily become unexpectedly intoxicated, putting themselves and others at serious risk of harm.

90. These false representations could have other serious potential consequences as well. For example, they could cause consumers to unexpectedly fail a drug test, resulting in potentially severe consequences for employment.

91. Likewise, a consumer incorrectly believing that they were in possession of a compliant industrial hemp product could be detained by law enforcement at an airport, on a highway, or in a foreign country, and could be subject to serious legal consequences for Cannabis products they purchased from the Foxhole Website.

92. For out-of-state or international consumers purchasing Cannabis products through the Foxhole Website, because marijuana remains a prohibited

controlled substance in numerous states and countries, Defendants' misrepresentations expose those out-of-state consumers to serious legal consequences merely for receiving shipment of Defendants' Cannabis products into those States or Nations.

93. In addition, because industrial hemp products are not subject to any kind of daily consumer purchasing limits like regulated marijuana products, a consumer (believing that they are ordering compliant industrial hemp products) could even order Defendants' Cannabis products in sufficient quantities to be subject to criminal drug trafficking charges.

94. Defendants engaged in a repeated pattern of selling products containing Delta-9 THC and other cannabinoids at amounts far greater (or in some instances, far less) than advertised, knowingly or recklessly deceiving consumers regarding the amount of cannabinoids present in their Cannabis products. Upon information and belief, some of these representations were intended to mislead consumers into believing that the products were CSA-exempt "industrial hemp," rather than marijuana, to induce consumers into purchasing Defendants' products.

95. Defendants' misrepresentations caused consumers to purchase and consume Cannabis products containing a significantly higher Delta-9 THC content than known or expected, subjecting consumers to the risk of unintended intoxication and a host of other potential injuries and consequences. Defendants' misrepresentations also caused consumers to purchase some Cannabis products that contained less cannabinoid amounts than were advertised on the Foxhole Website.

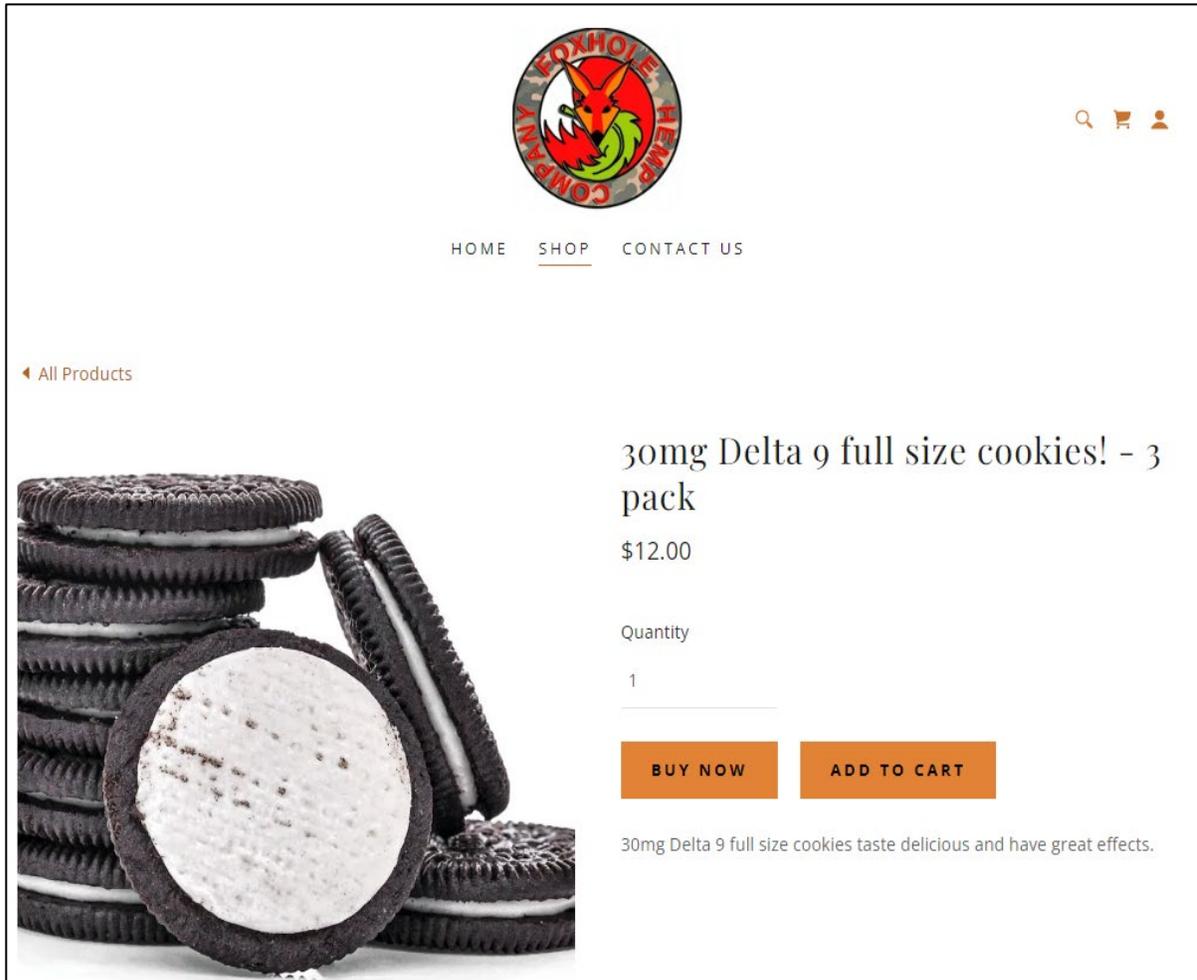
96. Finally, Defendants sold products that tested positive for extremely high levels of the solvent gas Benzene and tested positive for the pesticides Boscalid, Myclobutanil, and Fluopyram. The use of these pesticides and chemicals is prohibited by CDPHE or MED regulations, and consuming these chemicals via ingestion or inhalation could be harmful to consumers. Defendants did not tell consumers that their products may contain Benzene or these pesticides.

### **III. Defendants fail to take reasonable steps to ensure their intoxicating products, particularly those resembling popular children's snacks, are not sold to minors.**

97. Plaintiff incorporates by reference all allegations set forth above.

98. Defendants have known or recklessly disregarded the fact that certain Cannabis products sold on the Foxhole Website are intoxicating, and that these Cannabis products can present significant dangers to unknowing consumers, including intoxication, impairment, and exposure to legal consequences.

99. Defendants have also knowingly or recklessly disregarded that many of their products may appeal to children, as they are clearly “copycat” products which directly resemble or are identical to popular candies and snacks. For example, Defendants’ “Delta 9 full size cookies” are marketed using a stock photo<sup>3</sup> of the popular cookie brand Oreo®:



<sup>3</sup> [https://stock.adobe.com/images/sandwich-cookies-with-cream-on-white-background/123186928?as\\_content=tineye\\_match&clickref=1011lzTAAPDG&mv=affiliate&mv2=pz&as\\_camptype=backlink&as\\_channel=affiliate&as\\_source=partnerize&as\\_campaign=tineye](https://stock.adobe.com/images/sandwich-cookies-with-cream-on-white-background/123186928?as_content=tineye_match&clickref=1011lzTAAPDG&mv=affiliate&mv2=pz&as_camptype=backlink&as_channel=affiliate&as_source=partnerize&as_campaign=tineye)



100. Additionally, the photograph Defendants have used to promote their “Super High Gummy” is identical to “Gummy Watermelon Rings” candy seen on the Candy Nation website.<sup>4</sup> Defendants’ “150mg Delta 10 gummies” are identical to the “Gummy Apple Rings” candy sold on Amazon,<sup>5</sup> and Defendants’ “15mg D9 / 1mg THCP Cherries” are identical to candy sold on Nuts.com:<sup>6</sup>

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<sup>4</sup> <https://www.candynation.com/gummy-watermelon-rings>

<sup>5</sup> <https://www.amazon.com/Gummy-Apple-Rings-10lb-Case/dp/B07LBZGVSL>

<sup>6</sup> <https://nuts.com/chocolatessweets/gummies/gummy-sours/fruit/twin-cherries.html>



HOME SHOP CONTACT US

All Products / Edibles

### 150mg Delta 10 gummies

\$5.00



Count

-- Select --

Quantity

1

**BUY NOW** **ADD TO CART**

These gummies are delicious and provide quick, strong cerebral effects. Multiple flavors available.



### Gummy Apple Rings (10lb Case)

Brand: Nutstop.com

4.1 ★★★★★ 4 ratings | Search this page

\$43<sup>46</sup> (\$0.27 / Ounce)

Get \$10 off instantly: Pay \$33.46 ~~\$43.46~~ upon approval for t



Size: 10 Pound Case

1 Pound Bag --	<b>10 Pound Case</b> \$43.46 (\$0.27 / Ounce)	180lbs \$554.76 (\$0.19 / Ounce)
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#### Ingredients

#### About this item

Report an issue with this product or seller



Yupik Gummies, Cola Bottle, 2.2 lb, C

4.4 ★★★★★ 2,334

\$12<sup>99</sup> prime



HOME SHOP CONTACT US

All Products



### SUPER HIGH GUMMY - individual packed (350mg D8/25mg D9)

\$5.00

Quantity

1

BUY NOW

ADD TO CART

These suckers will slap even for people with the highest tolerance!

WELCOME TO CANDY NATION

GO TO WHOLESALE SITE SIGN IN CREATE AN ACCOUNT



Search...



SHOP BY CATEGORY



### GUMMY WATERMELON RINGS

SKU 5011

\$5.95

PACK OPTIONS

- 5 LB Bag - \$20.95
- 3 LB Bag - \$13.71
- 1 Resealable LB Bag - \$5.95

ADD ICE PACK + \$1.20

QTY 1

ADD TO CART



HOME SHOP CONTACT US

All Products

### 15mg D9 / 1mg THCP Cherries

\$20.00

Quantity: 1

**BUY NOW** **ADD TO CART**

With 15mg D9 / 1mg THCP these gummies are a great deal for the effect. Delicious cherry flavor.




Search for a product  **Search**

Looking for [Almonds](#), [Cashews](#), [Walnuts](#) or [Organic](#)?

FREE shipping on orders over \$59!

Nuts & Seeds | Chocolates & Sweets | Snacks | Dried Fruit | Gifts | Coffee & Tea | Superfood Powders | Cooking | Baking

New | Single Serves | Kosher | Gluten-Free | Sugar-Free | Organic | Sale | Wholesale | Office Snacks | Corporate Gifts | Best Sellers

Home < Chocolates & Sweets < Gummies < Gummy Sours < Sour Fruits

**Sale** **Sour Twin Cherries**

★★★★★ (4.7) 39 Reviews

**\$6.99** ~~\$7.99~~ 12% off

Size: 1lb bag (\$6.99/lb)

1lb bag \$6.99	28lb case \$167.72	25% off
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Delivery Options

One-time purchase | Start **Auto-Delivery**, Save 5%

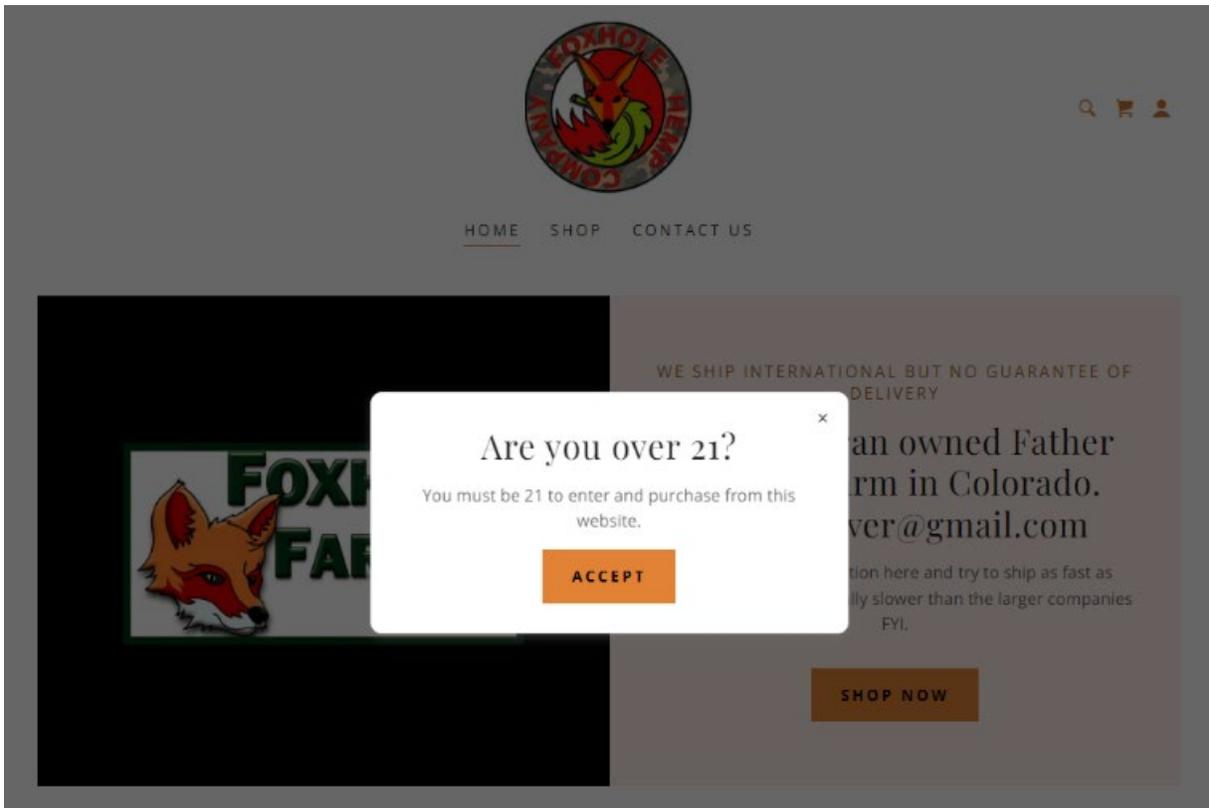
Order now and we'll ship tomorrow.  
Denver - 80211

1 | **Add to Cart - \$6.99**



101. Nonetheless, as of November 2024, the Foxhole Website can be accessed by anyone, including minors and children.

102. Upon entering the Foxhole Website, a user is sometimes – but not always – prompted to verify their age via an age-gate. The age-gate message that has appeared on the Foxhole Website asked “Are you over 21? You must be 21 to enter and purchase from this website.” The website provided a button that says “Accept” as well as an “X” in the upper right corner:



103. Upon either clicking the “Accept” button OR clicking the “X” on the top right corner, any user – including a minor – could enter the Foxhole Website and purchase non-intoxicating or intoxicating Cannabis products.

104. Foxhole Website users completed the purchase by entering their credit card information.

105. At no point during the Attorney General’s three undercover purchases was a purchaser required to show proof of identification or age on the Foxhole Website to complete a purchase of Cannabis products. Nor was a purchaser required to show proof of identification or age to receive delivery of products purchased on the Foxhole website. At no point throughout the shopping, purchase, or delivery process did Defendants require the purchaser to show proof of their age.

106. Again, Defendants knew or recklessly disregarded the fact that certain Cannabis products containing Delta-8 THC, Delta 9-THC, THC-P, HHC, HHC-O, and THC-A would have an intoxicating effect when consumed.

107. Since June 2023, companies selling what are now defined as “intoxicating” Cannabis products into Colorado are prohibited from selling to consumers under the age of 21.<sup>7</sup>

108. Other intoxicating products, such as alcohol and recreational marijuana, have strict age requirements and proof-of-age requirements that businesses are obligated to use.

109. This is because children are particularly vulnerable consumers. Cannabis use in adolescence has the potential to lead to a range of harms, including problems with memory and learning, increased risk of mental health issues, and potential for addiction.

110. Nevertheless, Defendants have failed to use any legitimate age verification system on the Foxhole Website, and have not required in-person age verification to receive delivery of Cannabis products, including intoxicating products containing Delta-8 THC, Delta 9-THC, THC-P HHC, HHC-O, and THC-A.

111. Defendants’ reckless and dangerous failure to take reasonable steps to protect children is compounded by the fact that none of the products received were in child-proof containers and the packaging failed to adhere to CDPHE and/or MED regulations which require certain disclosures and the listing of all ingredients, as well as the amount of each cannabinoid contained in the product.

112. Defendants’ failure to create an age-verification system on the Foxhole Website allowed at least one 16-year-old to purchase and receive intoxicating hemp products from the Foxhole Website in June 2023 without the consent or approval of that minor’s parents.

113. Defendants knowingly and recklessly allowed children to purchase Cannabis products that could cause them serious harm.

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<sup>7</sup> Colorado. Legislature, 74th General Assembly. SB23-271, Intoxicating Cannabinoid Hemp and Marijuana. Available at: [https://leg.colorado.gov/sites/default/files/2023a\\_271\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2023a_271_signed.pdf)

**IV. Defendants failed to obtain the required licenses and/or permits to sell Cannabis products in the State of Colorado.**

114. Plaintiff incorporates herein by reference all allegations set forth above.

115. To legally cultivate and sell industrial hemp in the state of Colorado, entities must obtain, maintain, and renew on an annual basis a Commercial Hemp Registration with the CDA and adhere to the statutes and regulations governing the cultivation of industrial hemp. *See* C.R.S. §§ 35-61-101 – 114.

116. To legally import, manufacture, distribute, and/or sell marijuana products within Colorado, entities must maintain, renew, and/or obtain licensure from MED and adhere to the statutes and regulations governing marijuana. *See* C.R.S. § 44-10-101 *et seq.*; *see also* 1 CCR 212-3.

117. To legally import, manufacture, distribute, and/or sell consumable industrial hemp products within Colorado, entities must also maintain, renew, and/or obtain licenses and/or permits from CDPHE and adhere to all the industrial hemp product regulations found in 6 CCR 1010-21, or as otherwise incorporated or referenced therein.

118. Defendants have sold Cannabis products on the Foxhole Website that are well over 0.3% Delta-9 THC on a dry weight basis, and, thus, are considered to be marijuana – not industrial hemp.

119. Defendants have also represented that they have cultivated industrial hemp products themselves and have sold these products through the Foxhole Website.

120. Defendants failed to obtain a license and/or permit from CDA, CDPHE, or MED to cultivate and sell industrial hemp or marijuana products in Colorado. Selling industrial hemp or marijuana products without the appropriate licensure is a violation of the CCPA. *See* C.R.S. § 6-1-105(1)(z).

**V. Defendants sell prohibited “intoxicating” cannabinoids into the State of Colorado.**

121. Plaintiff incorporates herein by reference all allegations set forth above.

122. Effective January 14, 2024, the sale of products containing industrial hemp-derived “intoxicating” cannabinoids to consumers within the state of Colorado is prohibited, unless those products fall within the definition of either a “broad spectrum” or “full spectrum” hemp product. *See* SB23-271; *see also* 6 CCR 1010-24.

123. To be legally sold in Colorado, “full spectrum” hemp products may contain a maximum of 1.75mg of total THC per serving. “Broad spectrum” hemp products may contain up to a total of 6 MG of total THC per container. *See* SB23-271; *See also* 6 CCR 1010-24.

124. The defined list of “intoxicating” cannabinoids includes cannabinoids which are marketed and sold by Foxhole, including Delta 9-THC, Delta 8-THC, Delta 10-THC, THC-A, HHC, HHC-O and THC-P.

125. None of the products sold by Foxhole containing THC meet the definition of either a “full spectrum” or “broad spectrum” industrial hemp product. Other products marketed and sold on the Foxhole Website containing the “intoxicating” cannabinoids HHC, HHC-O and THC-P cannot be sold to Colorado consumers and do not fall within any exception allowing for any such sale into Colorado.

126. To manufacture and sell products containing any “intoxicating” cannabinoid, one must obtain a “safe harbor” license issued by CDPHE. To be legally exported outside the state of Colorado, those “safe harbor” industrial hemp products must first come from a defined CDPHE “Approved Source” and then must also be legal under the law of any state to which they are being sent by any “safe harbor” licensee.

127. Foxhole is not a CDPHE “Approved Source.” There is no evidence that Foxhole is otherwise obtaining the “intoxicating” cannabinoids it sells from any other “Approved Source.” Further, many of Foxhole’s products contain levels of THC which would fall outside the limits of industrial hemp entirely. Foxhole’s products with excessive THC would be subject to MED regulations, as they are defined as marijuana.

128. Defendants have continued to sell “intoxicating hemp” products into Colorado after January 14, 2024, in violation of CDPHE regulations.

## **CLAIMS FOR RELIEF**

129. Defendants have engaged in numerous deceptive and unfair trade practices, each constituting a separate violation of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-105(1)(e), (u), (z), (rrr), (cccc), and (sss).

### **FIRST CLAIM FOR RELIEF**

#### **Violation of the CCPA - C.R.S. § 6-1-105(1)(e)**

(False representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property, or a false representation as to the sponsorship, approval, status, affiliation, or connections of a person therewith)

130. Plaintiff incorporates by reference all allegations set forth above.

131. Defendants made numerous false representations regarding the characteristics, ingredients, uses, and benefits of industrial hemp products sold to consumers in Colorado, nationwide, and internationally.

132. Defendants represented that their products contained less – and sometimes far less – Delta-9 THC than the products actually contained.

133. Defendants represented that their products contained less than 0.3% Delta-9 THC on a dry weight basis, and, thus, were exempt from the CSA, when they were not.

134. Defendants represented that certain products contained more cannabinoids, including Delta-9 THC, Delta-10 THC, THC-P, CBN, CBG and HHC, than the products actually contained.

135. Defendants' false and deceptive representations had the capacity to and did deceive consumers, and were intended to induce consumers to purchase Defendants' products.

136. Each day that Defendants published each misrepresentation on the Foxhole Website or through marketing materials is a CCPA violation.

137. Each package that Defendants sold and shipped to consumers containing false statements regarding the nature and/or legality of their products also is a CCPA violation.

138. Defendants' unlawful deceptive trade practices have deceived, misled, and unlawfully acquired money from consumers in violation of C.R.S. § 6-1-105(1)(e).

**SECOND CLAIM FOR RELIEF**

**Violation of the CCPA - C.R.S. § 6-1- 105(1)(u)**

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction)

139. Plaintiff incorporates by reference all allegations set forth above.

140. Defendants failed to disclose material information to consumers regarding the potency, concentration, and intoxicating nature of their products.

141. Defendants failed to include COAs for numerous items sold on the Foxhole Website, including THC-A distillates testing at more than 249 times the limit for a product to be considered industrial hemp and not marijuana. When consumed, these products could impair the consumer and cause them to fail a drug test.

142. Defendants' failure to include COAs also prevented consumers from knowing what kinds of pesticides and dangerous solvent gases were contained in some of the products.

143. Defendants' failure to include COAs for those products, or to otherwise inform consumers regarding the true Delta-9 THC content, pesticides, and/or dangerous solvent gas makeup of the products, had the capacity to induce consumers to purchase Defendants' products. Consumers would be less likely to purchase these products if they were aware that the Delta-9 THC levels were (for example) 249 times above the legal limit and, thus, considered marijuana rather than industrial hemp. Consumers would be unlikely to purchase products if they knew the products contained a dangerous amount of pesticides or solvent gases.

144. Each day that Defendants failed to include COAs for their products, or to otherwise accurately inform consumers regarding the Delta-9 THC content of their products, is a CCPA violation.

145. Defendants' unlawful deceptive trade practices have deceived, misled, and unlawfully acquired money from consumers. C.R.S. § 6-1-105(1)(u).

**THIRD CLAIM FOR RELIEF**

**Violation of the CCPA - C.R.S. § 6-1-105(1)(z)**

(Refuses or fails to obtain all governmental licenses or permits required to perform the services or to sell the goods, food, services, or property as agreed to or contracted for with a consumer)

146. Plaintiff incorporates by reference all allegations set forth above.

147. Defendants sold and distributed industrial hemp and marijuana products through their Foxhole website while operating within the State of Colorado.

148. Defendants have never maintained, renewed, and/or obtained required licenses and/or permits from CDA, CDPHE or MED.

149. Defendants' operation within the State of Colorado importing, manufacturing, selling, and distributing or shipping their products without proper licenses and/or permits is a violation of the CCPA.

150. Each day that Defendants have operated in Colorado without proper licenses and/or permits is a CCPA violation. Each sale of Defendants' products to a consumer without proper licenses and/or permits is a violation of the CCPA.

151. Defendants' unlawful deceptive trade practices, have deceived, misled, and unlawfully acquired money from consumers, and have otherwise deprived the State of Colorado of tax revenues or licensure fees. C.R.S. § 6-1-105(1)(z).

#### **FOURTH CLAIM FOR RELIEF**

##### **Violation of the CCPA - C.R.S. § 6-1- 105(1)(cccc)**

(Sells or offers for sale a product or electronic smoking device that is age-restricted to a person who does not meet the age restriction)

152. Plaintiff incorporates by reference all allegations set forth above.

153. Effective January 14, 2024, the sale of hemp products to individuals under 21 years old is prohibited in Colorado if the product meets certain requirements based on serving size, CBD to THC ratio, and amount of Delta-9 THC. *See* SB23-271; *see also* 6 CCR 1010-24.

154. Defendants sell products subject to the prohibition established in Senate Bill 23-271.

155. Defendants have failed to establish or use an age-verification system on the Foxhole Website that prevents people under 21 years of age purchasing intoxicating hemp products.

156. Each day that Defendants fail to use a proper age-verification system on the Foxhole Website that prevents minors under 21 years of age from access to Defendants' Cannabis products is a CCPA violation.

157. Defendants' unlawful deceptive trade practices have deceived, misled, and unlawfully acquired money from consumers. C.R.S. § 6-1-105(1)(cccc).

**FIFTH CLAIM FOR RELIEF**

**Violation of the CCPA - C.R.S. § 6-1- 105(1)(rrr)**

(Engages in any unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent act or practice)

158. Plaintiff incorporates herein by reference all allegations set forth above.

159. Defendants have engaged in multiple unfair practices that harmed, and are harming, Colorado consumers.

160. First, Defendants unfairly and unconscionably, knowingly, and recklessly failed to establish and use a legitimate age-verification system to ensure that minors under age 21 cannot purchase intoxicating Foxhole products on the Foxhole Website.

161. Upon information and belief, Defendants have failed to establish and use a legitimate age-verification system because it likely would negatively affect their potential sales of intoxicating products and/or would require increased expenses.

162. Defendants' failure to establish a legitimate age-verification system offends public policy, which strives to protect minors from harmful and intoxicating substances. Defendants' failure to use a legitimate age-verification system has caused, and/or has the potential to cause, substantial injury to children who purchase or consume Defendants' products. Children and teenagers are especially vulnerable to Defendants' misrepresentations, as they are more susceptible to the potential harms of Cannabis products and are less able to protect themselves against such harms.

163. There are numerous online programs available that allow businesses to verify a consumer's age by, for example, requiring photo identification prior to check-out. Despite these programs being used by some other industrial hemp companies, Defendants have not utilized any such services.

164. Each day that Defendants have unfairly and unconscionably failed to utilize a legitimate age-verification system to ensure that only age-appropriate adults purchase their intoxicating Foxhole products constitutes a CCPA violation.

165. Second, Defendants have sold and continue to sell intoxicating edible Cannabis on their website that are marketed identically to popular children's snacks and candy.

166. Defendants’ advertising and selling products that are identical to children’s snacks and candy without any appropriate labeling – particularly given Defendants’ failure to utilize any age-verification – offends public policy, as society strives to protect minors from harmful and intoxicating substances. Defendants sold these products without any age-verification system in place that would prevent children from purchasing those dangerous products. And Defendants failed to deliver these products in any kind of child-proof packaging, making it possible for children to open the packages and consume the contents thinking it was candy or a snack.

167. Further, none of the individual products themselves contained any markings to indicate that they contained THC or other intoxicating cannabinoids. The packaging thus failed to adhere to CDPHE and/or MED regulations requiring a statement that consumers “Must be 21 or older to Purchase.” *See* 6 CCR 1010-24.7(E).

168. Each day that Defendants unfairly and unconscionably sold intoxicating Foxhole products that could be marketed towards children constitutes a CCPA violation.

169. Third, Defendants are in violation of the CDPHE regulations that went into effect January 14, 2024, which prohibit the sale of finished products containing “intoxicating” cannabinoids in Colorado, including any product containing over 1.75 MG of Delta-9 THC per serving. Violation of an established law or policy can serve as the basis for an unfairness claim under the CCPA, particularly in conjunction with Defendants’ other unfair and deceptive conduct outlined above.

170. Each day that Defendants unfairly and unconscionably sell disallowed “intoxicating cannabinoids” in Colorado constitutes a CCPA violation.

171. Defendants’ conduct has deceived, misled, and unlawfully acquired money from consumers. C.R.S. § 6-1-105(1)(rrr).

### **SIXTH CLAIM FOR RELIEF**

#### **Violation of the CCPA - C.R.S. § 6-1-105(1)(sss)**

(Violations of the CCPA as it applies to hemp, industrial hemp, industrial hemp products, intoxicating hemp, adult use Cannabis products, the plant Cannabis sp., or anything derived from or produced from the plant Cannabis sp.)

172. Plaintiff incorporates herein by reference all allegations set forth above.

173. Each deceptive and unfair trade practice alleged above involves industrial hemp products, intoxicating hemp, adult use Cannabis products, and/or things derived from or produced from the plant Cannabis sp.

174. Thus, each of Defendants' deceptive and unfair trade practices are also violations of C.R.S. § 6-1-105(1)(sss).

**RELIEF REQUESTED**

WHEREFORE, Plaintiff seeks entry of Judgment in favor of Plaintiff and against the Defendants, jointly and severally, as follows:

- A. Entry of an Order declaring that Defendants' above-described conduct constitutes violations of the Colorado Consumer Protection Act, including C.R.S. §§ 6-1- 105(1)(e), (u), (z), (cccc), (rrr), and (sss);
- B. Entry of an Order permanently enjoining Defendants, their officers, directors, successors, assignees, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practice as defined in and proscribed by the CCPA and as set forth in this Complaint;
- C. Entry of additional appropriate Orders necessary to prevent Defendants' continued or future deceptive trade practices;
- D. Judgment in an amount to be determined at trial for restitution to consumers, disgorgement, or other equitable relief pursuant to C.R.S § 6-1-110(1);
- E. Entry of an Order that Defendants forfeit, and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$20,000 per violation pursuant to C.R.S. § 6-1-112(1)(a);
- F. Entry of an Order requiring Defendants to pay Plaintiff's costs incurred in bringing this action including, but not limited to, reasonable attorneys' fees and costs, pursuant to C.R.S. § 6-1-113(4); and
- G. Such further Orders as the Court deems appropriate to effectuate the purposes of the CCPA.

Respectfully submitted this 21st day of November, 2024.

PHILIP J. WEISER  
Attorney General

/s/ Ryan Miller  
Lauren Dickey, 45773\*  
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