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Attorneys for Plaintiff
OUTLAW LABORATORY, LP

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

OUTLAW LABORATORY, LP, a
Texas limited partnership,

Plaintiff,

vs.

AL-ERYANI WHOLESALE INC., a
California Corporation, SAMS
UNIVERSAL WHOLESALE INC
D/B/A SAMCO WHOLESALE, a
California Corporation, NW SHELL,
INC., a California Corporation,
CHICO'S MARKET, INC, a
California Corporation, GOLFLINKS
STATION, INC., a California
Corporation and DOES 1 through
100, inclusive,

Defendants.

CASE NO. 3:18-CV-557

COMPLAINT FOR:

- (1) FALSE ADVERTISING IN VIOLATION OF THE LANHAM ACT § 43 (a)(1)(B)); AND**
- (2) VIOLATION OF THE CIVIL RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO)**

[DEMAND FOR A JURY TRIAL]

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4 Plaintiff Outlaw Laboratory, LP, a Texas limited partnership (“OLP” or
5 “Plaintiff”), by and through its undersigned attorneys, submits this Complaint against
6 defendants AL-ERYANI WHOLESALE INC., a California Corporation, SAMS
7 UNIVERSAL WHOLESALE INC D/B/A SAMCO WHOLESALE, a California
8 Corporation, NW SHELL, INC., a California Corporation, CHICO’S MARKET, INC, a
9 California Corporation, GOLFLINKS STATION, INC., a California Corporation and
10 Does 1-100 (collectively, the “Defendants”), and in support thereof avers as follows:

11 INTRODUCTION

12 1. Defendants are engaged in a massive covert scheme to distribute and sell
13 illegal “male enhancement” pills containing undisclosed pharmaceuticals to the general
14 public. Specifically, Defendants offer for sale various sexual enhancement products,
15 including but not limited to, Rhino 7 Platinum 3000, Rhino 7 Platinum 5000 and Rhino 8
16 Platinum 8000 (collectively, the “Enhancement Products”). All of the Enhancement
17 Products have been the subject of laboratory testing and public announcements by the
18 FDA, which found these products to contain hidden drug ingredients such as sildenafil (a
19 prescription drug), desmethyl carbodenafil (an analogue of sildenafil), dapoxetine (an
20 unapproved anti-depressant drug) and tadalafil (a prescription drug), among other
21 dangerous undisclosed ingredients.

22 2. The Enhancement products are distributed by Al-Eryani Wholesale Inc. and
23 Sams Universal Wholesale Inc d/b/a SamCo Wholesale (the “Supplier Defendants”)
24 through a network of co-conspirators, named herein as co-defendants (the “Retail
25 Defendants”), who own and operate independent businesses selling the Enhancement
26 Products, and who profit from the sale of the illegal and dangerous products by making
27 false statements including that the Enhancement Products are “all natural” and have
limited side effects. Aside from these patently false statements, Defendants have failed
to disclose the true nature of the Enhancement Products to its customers, even though
they are aware of the dangerous secret ingredients.

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4 3. Plaintiff is the manufacturer of competing products called “TriSteel” and
5 “TriSteel 8hour,” which are all natural male enhancement products made in the USA and
6 distributed for sale in all 50 US States.

7 4. The illegal male enhancement supplement industry has flourished in the
8 shadows of intermittent enforcement of nutritional supplement laws. In this regard, the
9 FDA has issued several public notices regarding the use of sildenafil in over the counter
10 “male enhancement” supplements, but has only taken action on a handful of cases. The
11 Supplier Defendants and the Retail Defendants have taken full advantage of this
12 regulatory landscape, making significant profits selling dangerous products while openly
13 engaging in illegal activity.

14 5. Thus, Plaintiff’s only recourse is a civil action to protect the commercial
15 interests recognized by the Lanham Act and to expose the civil conspiracy detailed
16 herein. As such, Defendants have knowingly and materially participated in a false and
17 misleading advertising campaign to promote and sell its Enhancement Products, giving
18 consumers the false impression that these products are safe when in reality, Defendants
19 are well aware that the Enhancement Products contain hidden drug ingredients.

20 6. Defendants’ false and misleading statements and advertising pose extreme
21 health risks to consumers in at least two ways. First, Defendants mislead consumers into
22 believing that the advice and authorization of a licensed medical professional is not
23 required to mitigate or avoid the potentially life-threatening side effects, drug interactions
24 and contraindications of the sildenafil and other drug ingredients hidden in the
25 Enhancement Products. Second, by failing to inform consumers that the Enhancement
26 Products contain sildenafil, consumers who know that their medical history and drug
27 prescriptions make sildenafil consumption dangerous may nevertheless consume the
Enhancement Products because they are not made aware they contain sildenafil.

7. Defendants have knowingly and materially participated in false and
misleading marketing, advertising and labeling to promote and sell the Enhancement

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4 Products, giving consumers the false impression that these products are safe and natural
5 dietary supplements when in reality Defendants know that the Enhancement Products
6 contain artificially manufactured prescription drug ingredients that pose extreme health
7 dangers when taken without the supervision of a licensed medical professional.

8 8. Such false and misleading marketing and advertising is extremely dangerous
9 to individual consumers and harmful to the dietary supplement industry as a whole.
10 Defendants have created an illegitimate marketplace of consumers seeking to enhance
11 their sexual performance but who are not informed, or who are misinformed, of the
12 serious dangers of using Defendants' Enhancement Products. Consumers of the
13 Enhancement Products have little or no incentive to use natural, legitimate and safe
14 sexual performance enhancement products, such as Plaintiff's TriSteel or TriSteel 8hour,
15 until they are harmed or Defendants' Enhancement Products are taken off of the shelves.
16 Defendants' continuing false, misleading, illegal and deceptive practices have violated
17 the Lanham Act and have unjustly enriched Defendants at the expense of Plaintiff, and
18 have harmed Plaintiff's commercial interests, including but not limited to, loss of
19 revenue, disparagement and loss of goodwill.

20 9. Among other things, this action seeks to enjoin Defendants from the
21 marketing and sale of any and all of the Enhancement Products, disgorgement of
22 Defendants' profits, treble damages, punitive damages and attorneys' fees as Defendants
23 are illegally and falsely marketing such products in violation of the Lanham Act and the
24 Civil Racketeer Influenced and Corrupt Organizations Act of 1970.

25 **JURISDICTION AND VENUE**

26 10. This Court has subject matter jurisdiction over this action pursuant to 15
27 U.S.C. § 1121 and 28 U.S.C. § 1331 (federal question jurisdiction).

11. This Court has personal jurisdiction over Defendants because they have,
directly or through their intermediaries (including distributors, retailers, and others),
developed, licensed, manufactured, shipped, distributed, offered for sale, sold, and

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4 advertised their products, including but not limited to the Enhancement Products, in the
5 United States, the State of California and this district. Defendants have purposefully and
6 voluntarily placed these products into the stream of commerce with the expectation that
7 they will be purchased in this district.

8 12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2)
9 because a substantial part of the events or omissions which gave rise to the claim
10 occurred in this district.

11 **PARTIES**

12 13. Plaintiff Outlaw Laboratory, LP is a Texas limited partnership organized
13 under the laws of the State of Texas.

14 14. Upon information and belief, defendant Al-Eryani Wholesale Inc. is a
15 California Corporation with its principal place of business located at 6201 Coliseum Way
16 No J, Oakland, California 94621.

17 15. Upon information and belief, defendant Sams Universal Wholesale Inc d/b/a
18 SamCo Wholesale is a California Corporation with its principal place of business located
19 at 807 Kennedy Street, Oakland, California 94606.

20 16. Upon information and belief, defendant NW Shell, Inc. is a California
21 Corporation with its principal place of business located at 3750 International Boulevard,
22 Oakland, California 94601.

23 17. Upon information and belief, defendant Chico's Market, Inc. is a California
24 Corporation with its principal place of business located at 2801 Havenscourt Boulevard,
25 Oakland, California 94605.

26 18. Upon information and belief, defendant Golflinks Station, Inc. is a
27 California Corporation with its principal place of business located at 9750 Golf Links
Road, Oakland, California 94605.

19. Plaintiff is ignorant of the true names and capacities of defendants sued
herein as Does 1-100, inclusive, and therefore sued these defendants by such fictitious

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4 names. Plaintiff will amend this Complaint to allege their true names and capacities
5 when ascertained. Plaintiff is informed and believes and thereon alleges that each of
6 these fictitiously named defendants is responsible in some manner for the occurrences
7 herein alleged, and that Plaintiff's injuries as herein alleged were proximately caused by
8 the aforementioned defendants.

9 10 **FACTUAL ALLEGATIONS**

11 **Sildenafil**

12 20. The FDA has approved sildenafil for treatment of erectile dysfunction.
13 However, because of known side effects, drug interactions and contraindications, the
14 FDA has deemed sildenafil to be a prescription drug that can only be administered under
15 the supervision of a medical professional.

16 21. The serious side effects of sildenafil include, for example, priapism (i.e.,
17 prolonged penile erections leading to tissue death and potential permanent erectile
18 dysfunction), severe hypotension (i.e., low blood pressure), myocardial infarction (i.e.,
19 heart attack), ventricular arrhythmias, stroke, increased intraocular pressure (i.e.,
20 increased eye fluid pressure), anterior optic neuropathy (i.e., permanent optic nerve
21 damage), blurred vision, sudden hearing loss, and dizziness.

22 22. The serious negative drug interactions of sildenafil include, for example, (i)
23 interacting with alkyl nitrites and alpha-1 blockers to cause angina and life-threatening
24 hypotension, (ii) interacting with protease inhibitors to increase the incidence and
25 severity of side effects of sildenafil alone, and (iii) interacting with erythromycin and
26 cimetidine to cause prolonged plasma half-life levels.

27 23. In addition to these risks, contraindications of sildenafil include underlying
cardiovascular risk factors (such as recent heart surgery, stroke or heart attack) since
consumption of sildenafil by individuals with these conditions can greatly increase the
risk of heart attack.

24. Because of these dangerous side effects, drug interactions and contraindications, the advice and authorization of appropriate licensed medical professionals is absolutely crucial for the safe consumption of sildenafil. Without such safeguards, the consequences can be dire; the sale of mislabeled sildenafil in similar circumstances has led to multiple deaths reported in the media.

Defendants' Conspiracy

25. The Supplier Defendants are wholesale suppliers and distributors of various sexual enhancement supplements, which are often imported from China, rarely disclose any manufacturer information on their packaging and contain hidden drug ingredients. The Enhancement Products are generally sold in single-pill form. The Supplier Defendants distribute the Enhancement Products through a network of co-conspirators, named herein as co-defendants (the "Retail Defendants"), who own and operate independent businesses selling the Enhancement Products, and profit from the sale of the illegal and dangerous products to consumers at a large markup on each pill.

26. The Supplier Defendants contact retailers such as the Retail Defendants and offer the Enhancement Products for sale. The Enhancement Products are high-margin products and as such are situated at or near the checkout counter. The Enhancement Products are all subject to FDA public announcements regarding their illicit contents; however, the Retail Defendants still participate in their sale, due to their profitability.

Defendants' False Statements Regarding The Enhancement Products

27. Golflinks Station, Inc. is the owner and operator of the retail location at 9750 Golf Links Road, Oakland, California, which advertises and offers for sale various sexual enhancement supplements, including without limitation, Rhino 7 Platinum 5000.

28. NW Shell, Inc. is the owner and operator of the retail location at 3750 International Boulevard, Oakland, California 94601, which advertises and offers for sale various sexual enhancement supplements, including without limitation, Rhino 7 Platinum 3000 and Rhino 7 Platinum 5000.

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4 29. Chico's Market, Inc. is the owner and operator of the retail location at 2801
5 Havenscourt Boulevard, Oakland, California 94605, which advertises and offers for sale
6 various sexual enhancement supplements, including without limitation, Rhino 8 Platinum
7 8000, Rhino 7 Platinum 5000 and Rhino 7 Platinum 3000.

8 30. The Defendants commercially market, advertise, distribute, offer for sale
9 and profit from the Enhancement Products. The Enhancement Products claim that they
10 are "ALL NATURAL," a "NATURAL FORMULA," with "NO HARMFUL synthetic
11 chemicals" and "NO PRESCRIPTION necessary." They also claim to offer "NO
12 HEADACHE" and to have limited side effects. However, such claims are materially
13 false and misleading. Contrary to Defendants' statements, recent FDA laboratory
14 analyses have confirmed that the Enhancement Products contain sildenafil, a synthetic
15 pharmaceutical with profound side effects, among other hidden drug ingredients.

16 31. Defendants' false statements and advertising pose extreme health risks to
17 consumers in at least two ways. First, by stating that no prescription is necessary to
18 consume the Enhancement Products, Defendants mislead consumers into believing that
19 the advice and authorization of a licensed medical professional is not required to mitigate
20 or avoid the potentially life-threatening side effects, drug interactions and
21 contraindications of sildenafil hidden in the Enhancement Products. Second, by failing to
22 inform consumers that the Enhancement Products contain sildenafil, consumers who
23 know that their medical history and drug prescriptions make sildenafil consumption
24 dangerous may nevertheless consume the Enhancement Products because they are
25 unaware that they contain sildenafil.

26 32. Accordingly, Defendants' false and misleading advertising is extremely
27 dangerous to individual consumers and harmful to the dietary supplement industry as a
whole. Defendants have created an illegitimate marketplace of consumers seeking to
enhance their sexual performance but who are not informed, or who are misinformed, of
the serious dangers of using Defendants' Enhancement Products. The ubiquity of the

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4 Enhancement Products, their relatively low cost to manufacture in comparison to natural
5 products, and their dramatic pharmacologic effects makes it so that legitimate sexual
6 performance enhancement products, such as TriSteel or TriSteel 8hour, struggle to obtain
7 market share.

8 **Plaintiff's Dietary Supplements: TriSteel and TriSteel 8hour**

9 33. Plaintiff OLP is a manufacturer of all-natural dietary supplements. Plaintiff
10 manufactures and offers for sale TriSteel and TriSteel 8hour, male sexual performance
11 enhancement supplements that promote increased sexual desire and stamina. The
12 ingredients in TriSteel are Epimedium Extract (leaves), Yohimbe Extract (8mg
13 Yohimbine Alkaloids), Xanthoparmelia Scarbrosa Extract (Lichen), Gamma Amino
14 Butyric Acid (GABA), L-Arginine, Gelatin, Cellulose, Magnesium Stearate and Silica.
15 Plaintiff sells TriSteel and TriSteel 8hour in all 50 states through its website, as well as
16 through many other online and storefront retail locations.

17 **CLAIMS FOR RELIEF**

18 **FIRST CLAIM FOR RELIEF**

19 **(False Advertising in Violation of Section 43(a)(1)(B) of the Lanham Act)**

20 34. Plaintiff incorporates the allegations contained in the foregoing paragraphs
21 as though fully set forth herein in their entirety.

22 35. Defendants have knowingly and purposely made false and misleading
23 descriptions of fact concerning the nature, characteristics and qualities of the
24 Enhancement Products by, without limitation, commercially marketing and claiming that
25 the Enhancement Products that they sell are safe and natural "dietary supplements" that
26 will enhance a consumer's sexual performance without requiring a doctor's prescription,
27 all while purposefully omitting that (a) the Enhancement Products contain sildenafil and
therefore cannot be "dietary supplements," (b) sildenafil is not naturally occurring, (c)
sildenafil is a prescription drug requiring the prior authorization and supervision of a
licensed medical professional, and (d) consumption of sildenafil without consultation and

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4 advice from a licensed medical professional poses extreme health risks, including without
5 limitation, hypotension, heart attack and death.

6 36. The use of such false, misleading and disingenuous marketing has the
7 tendency to deceive a substantial segment of the public and consumers, including those in
8 this district, into believing that they are purchasing a product with different
9 characteristics.

10 37. This deception is material because: (i) it is likely to influence a consumer's
11 purchasing decision, especially if the consumer (a) is looking for an all-natural sexual
12 enhancement dietary supplement, (b) is purchasing the Enhancement Products out of an
13 attempt to avoid Sildenafil because the consumer knows that Sildenafil poses special
14 health risks given such consumer's medical history or current drug prescriptions, and/or
15 (c) wants to avoid taking any prescription drugs, generally, but especially without the
16 supervision of a licensed medical professional; and (ii) such decision could lead to
17 dangerous and unanticipated health consequences for such consumers.

18 38. Defendants have introduced their false and misleading statements into
19 interstate commerce via marketing and advertising on product packages and labels, and
20 on display cases placed in retail locations in the state of California.

21 39. Plaintiff has been injured as a result of Defendants' false and misleading
22 statements. Specifically, Defendants' false and misleading advertising concerning the
23 Enhancement Products has negatively impacted Plaintiff's sales of TriSteel and TriSteel
24 8hour because both products are intended for sexual performance enhancement and target
25 the same consumers. Thus, Plaintiff has suffered both an ascertainable economic loss of
26 money and reputational injury by the diversion of business from Plaintiff to Defendants
27 and the loss of goodwill in Plaintiff's products. The ubiquity of the Enhancement
Products, their relatively low cost to manufacture in comparison to natural products (like
TriSteel and TriSteel 8hour), and their dramatic pharmacologic effects makes it so that
legitimate sexual performance enhancement products, such as TriSteel or TriSteel 8hour,

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4 struggle to obtain market share. Moreover, Defendants conduct has created reputational
5 damage in that Defendants' misconduct damages the marketplace as a whole and has the
6 tendency to disparage Plaintiff's products and goodwill.

7 40. Defendants' actions, as described above, constitute false and misleading
8 descriptions and misrepresentations of fact in commerce that, in commercial advertising
9 and promotion, misrepresent the nature, characteristics, and qualities of its products in
10 violation of Section 43(a)(1)(B) of the Lanham Act.

11 **SECOND CLAIM FOR RELIEF**

12 **(Violation of the Civil Racketeer Influenced and Corrupt Organizations Act)**

13 41. Plaintiff incorporates the allegations contained in the foregoing paragraphs
14 as though fully set forth herein in their entirety.

15 42. Defendants are engaged in an enterprise to defraud and mislead consumers
16 by way of their false and misleading labeling and advertisements concerning the
17 Enhancement Products, which they unlawfully distribute, market, and offer for sale
18 knowing that the products contain illicit ingredients. Thus, Defendants have a plan or
19 scheme to defraud and intent to defraud.

20 43. Defendants have used the wires to further the scheme on multiple occasions
21 in purchase orders sent and received and in the unlawful distribution of the Enhancement
22 Products containing hidden drug ingredients. For example, October 4, 2017 at 11:56am
23 Defendant NW Shell, Inc. purchased Rhino 7 Platinum 5000 from Al-Eryani Wholesale
24 Inc. in the amount of \$100.00 via credit card and again on October 16, 2017 at 10:08am
25 in the amount of \$105.00 via credit card. NW Shell, Inc. also purchased Rhino 7
26 Platinum 3000 in the amount of \$105.00 and Rhino 7 Platinum 5000 in the amount of
27 \$63.00 from SAMS UNIVERSAL WHOLESALE INC d/b/a SamCo on November 1,
2017 at 12:01pm via credit card. The Supplier Defendants have all engaged in similar
transactions with the Retail Defendants. The Retail Defendants in turn sell the

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4 Enhancement Products to the public at large using the wires. Thus, Defendants have
5 engaged in wire fraud as defined in 18 USC § 1961(1) & §1343.

6 44. As detailed above, Defendants mislabel, advertise, and offer for sale the
7 Enhancement Products as “dietary supplements.” Defendants falsely claim that these
8 products are natural and do not require a prescription, among other misrepresentations.
9 Defendants make these misrepresentations despite the fact that they know that such
10 products unlawfully contain hidden prescription drug ingredients.

11 45. Indeed, Defendants fail to disclose that the Enhancement Products contain
12 drug ingredients. The sale of products containing undisclosed drug ingredients (without
13 requiring a prescription and without informing consumers of the health and safety risks
14 of these drugs) is unlawful and seriously endangers consumers. In this regard,
15 Defendants also fail to disclose any of the adverse health consequences of taking
16 sildenafil. According to the FDA, these undisclosed ingredients may interact with
17 nitrates found in some prescription drugs such as nitroglycerin and may lower blood
18 pressure to dangerous levels, among other negative side effects.

19 46. Thus, Defendants market and sell the Enhancement Products using false and
20 fraudulent labeling claims and representations, using the wires, in violation of federal
21 law.

22 47. Defendants have knowingly imported, purchased, and sold the Enhancement
23 Products to be delivered by commercial interstate carrier, including but not limited to,
24 use of the mails in furtherance of their scheme to defraud and mislead consumers of their
25 products.

26 48. Defendants have violated the substantive RICO statute, 18 U.S.C.A. § 1962,
27 as detailed above by receiving income from a pattern of racketeering activity involving
interstate commerce, wires, and electronic communications.

49. Plaintiff has been injured in its business or property by reason of
Defendants’ violation of section 1962 by, *inter alia*, the diversion of business from

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4 Plaintiff to Defendants who compete directly for the same customers. Moreover, the
5 ubiquity of the Enhancement Products, their relatively low cost to manufacture in
6 comparison to natural products (like TriSteel and TriSteel 8hour), and their dramatic
7 pharmacologic effects makes it so that legitimate sexual performance enhancement
8 products, such as TriSteel or TriSteel 8hour, struggle to compete, directly hurting
9 Plaintiff's business. The dangers of Defendants sale of the Enhancement Products, and its
10 resultant harm to consumers, including multiple reported deaths in the media, has also
11 injured Plaintiff's business by tainting the marketplace for male enhancement products as
12 a whole.

13 **PRAYER**

14 Wherefore, plaintiff OLP prays for judgment against Defendants as follows:

15 50. For preliminary and permanent injunctive relief enjoining Defendant from
16 producing, licensing, marketing, and selling any of the Enhancement Products, including
17 but not limited to, Rhino 7 Platinum 3000, Rhino 7 Platinum 5000 and Rhino 8 Platinum
18 8000;

19 51. For an award of compensatory damages to be proven at trial in accordance
20 with 15 U.S.C. § 1117;

21 52. For an award of any and all of Defendant's profits arising from the
22 foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws;

23 53. For restitution of Defendant's ill-gotten gains;

24 54. For treble damages in accordance with 15 U.S.C. § 1117;

25 55. For treble damages in accordance with 18 U.S.C. § 1964;

26 56. For punitive damages;

27 57. For costs and attorneys' fees; and

58. Any other relief the Court may deem appropriate.

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DATED: January 25, 2018

TAULER SMITH LLP

By: /s/ Robert Tauler
Robert Tauler, Esq.
PLAINTIFF
OUTLAW LABORATORY, LP

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

DATED: January 25, 2018

TAULER SMITH LLP

By: /s/ Robert Tauler
Robert Tauler, Esq.
PLAINTIFF
OUTLAW LABORATORY, LP