

KRISTIN K. MAYES
ATTORNEY GENERAL
(Firm State Bar No. 14000)
ERIKA MANSUR (BAR No. 028546)
JANE S. FALLON (BAR No. 014776)
LIZA LAWSON (BAR No. 039016)
ASSISTANT ATTORNEYS GENERAL
OFFICE OF THE ATTORNEY GENERAL
2005 North Central Avenue
Phoenix, Arizona 85004-1592
Telephone: (602) 542-7719
Facsimile: (602) 542-4377
Email: consumer@azag.gov
Attorneys for the State of Arizona

SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

STATE OF ARIZONA, *ex rel.* KRISTIN K.
MAYES, Attorney General,

Plaintiff,

v.

PRO SOURCE SUPPLY LLC, an Arizona limited
liability company; PRO SOURCE VAPES LLC, an
Arizona limited liability company; PRO SOURCE
CBD LLC, an Arizona limited liability company;
TIMOTHY KELL and JANE DOE KELL, husband
and wife;

Defendants.

Case No.: **CV2025-023752**

COMPLAINT

Plaintiff, the State of Arizona *ex rel.* Kristin K. Mayes, Attorney General, alleges the following for its Civil Complaint (the “Complaint”) against Defendants Pro Source Supply LLC, Pro Source Vapes LLC, and Pro Source CBD LLC (collectively, “Pro Source”), Timothy Kell (“Kell”) (together, “Defendants”), and Jane Doe Kell.

INTRODUCTION

1
2 1. The State brings this action to remedy Defendants’ continued disregard for the
3 safety and well-being of Arizona’s youth and its contribution to nicotine use and addiction among
4 young people.

5 2. Despite decreases in tobacco use after multi-state pressure against tobacco
6 companies, the use of any nicotine product among youth rose to epidemic proportions with the
7 advent of e-cigarettes, peaking at 31.2% nationwide in 2019.¹ Vapor products, including e-
8 cigarettes, remain the most commonly used nicotine product by high school and middle school
9 students in the United States, while flavored little cigars remain the most popular combustible
10 tobacco product used by youth.²

11 3. In the face of numerous citations, fines, re-education, and warnings, Defendants
12 continue to sell tobacco and nicotine products to youth under the age of 18 in violation of state
13 criminal law³ and under the age of 21 in violation of federal law. Defendants either refuse to check
14 identification, or when faced with knowledge that a patron is under the legal age of sale, sell the
15 tobacco or nicotine products anyway. Defendants also do not expressly or impliedly warn youth
16 of the dangers of these products or the illegality of their sale to underaged persons. Out of three
17 locations owned and operated by Defendants, only one “We Card”, sign⁴ is visible and that sign
18 is on the door to the establishment. Otherwise, no visible signage notifies patrons of the illegality
19 of sales to underage persons nor the specific age of sale required to purchase these products.
20

21 ¹ Karen A. Cullen, et al., *E-cigarette Use Among Youth in the United States*, 2019, 322(21)
22 JAMA 2019, E3-E4 (electronic pagination) (Nov. 5, 2019),
23 <https://jamanetwork.com/journals/jama/fullarticle/2755265>.

24 ² Campaign for Tobacco-Free Kids, *New Report: Tobacco Companies Have Flooded the*
25 *Market with Cheap, Flavored Cigars that Appeal to Kids*, (Oct. 4, 2023),
https://www.tobaccofreekids.org/press-releases/2023_10_04_cigar-report.

26 ³ On June 27, 2025, SB1247 was signed into law raising the state minimum age of sale to
27 21. This law will go into effect on September 26, 2025.

28 ⁴ Additionally, the standard “We Card” sign does not reflect the federal law that requires
valid, government-issued identification to be requested from any individual who reasonably
appears to be under the age of 30 for tobacco product sales.

4. Product displays feature bold colors and themes that appeal to youth. Colorful anime and cartoon-themed keychains adorn the counter in an eye-catching display. T-shirts and backpacks sporting popular logos appeal to youth.⁵

5. Finally, vape products are specifically highlighted with discount signage. Underaged individuals have been shown to be price sensitive and discount products appeal to this group.⁶

6. Inspections during the last eight years show Defendants have failed to follow the law in over two-thirds of youth compliance inspections across all three locations.

7. The State of Arizona files this action to, among other things, prohibit Defendants from continuing to harm Arizona's youth.

JURISDICTION AND VENUE

1. The State brings this action pursuant to the Arizona Consumer Fraud Act (“ACFA”), Arizona Revised Statutes (“A.R.S.”) §§ 44-1521 to -1534 to pursue all legal remedies against Defendants for endangering Arizona youth, and to hold Defendants responsible for their actions.

2. This Court has subject-matter jurisdiction under A.R.S. § 12-123.

3. This Court may issue appropriate orders both prior to and following a determination of liability under A.R.S. § 44-1528.

4. The State's claims set forth herein are not barred by any statute of limitations under A.R.S. § 12-510.

5. The claims which are the subject of this Complaint arose from events in this state caused by the Defendants.

6. Venue is proper in Maricopa County under A.R.S. § 12-401(17).

⁵ Packaging Gateway, *The power of packaging colours: influencing kids' buying behavior* (Sept. 26, 2023), <https://www.packaging-gateway.com/features/packaging-colours-influencing-kids-behaviour/?cf-view>.

⁶ Siegel, L. N., Cook, S., Oh, H., Liber, A. C., Levy, D. T., & Fleischer, N. L. (2024). The longitudinal association between coupon receipt and established cigarette smoking initiation among young adults in USA. *Tobacco control*, 33(e2), e208–e213. <https://doi.org/10.1136/tc-2023-058065>.

7. Under Arizona Rule of Civil Procedure 26.2, this action is subject to the Tier 3 discovery limits. Upon proper application, the State will seek additional discovery beyond these limits.

PARTIES

8. Plaintiff is the **State of Arizona** (the “State”) *ex rel.* Kristin K. Mayes, the Attorney General of Arizona, who is authorized to bring this action pursuant to A.R.S. § 44-1524.

9. Defendant **Pro Source Supply LLC, Pro Source Vapes LLC, and Pro Source CBD LLC** (collectively, “Pro Source”) are limited liability companies organized under the laws of the state of Arizona. Pro Source is a tobacco and nicotine retailer with at least three Arizona locations located at 15223 North 87th Street, Scottsdale, Arizona 85260 (“Shop 1”); 5104 West Northern Avenue, Glendale, Arizona, 85301 (“Shop 2”); and 1808 North Scottsdale Road, Tempe, Arizona 85281 (Shop 3”).

10. Defendant **Timothy Kell** (“Kell”) is an individual who, on information and belief, currently resides in Maricopa County, Arizona. Kell is the sole owner and manager of Pro Source.

11. Defendant **Jane Doe Kell** is named in the event that Timothy Kell is married and that community property exists against which the State can obtain monetary relief in this matter. If Timothy Kell is married and the State learns the true identity of Jane Doe Kell, it will move to amend its Complaint accordingly.

ALLEGATIONS

I. Background

12. Tobacco use remains the number one preventable cause of death in the United States, causing more than 480,000 deaths every year.⁷ That number is equivalent to six passenger

⁷ U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress. A Report of the Surgeon General* (Jan. 2014), https://www.ncbi.nlm.nih.gov/books/NBK179276/pdf/Bookshelf_NBK179276.pdf; Centers for Disease Control and Prevention, *Cigarette Smoking* (Sept. 17, 2024), <https://www.cdc.gov/tobacco/about/index.html#:~:text=At%20a%20glance&text=Smoking%20and%20secondhand%20smoke%20exposure,of%20developing%20smoking%2Drelated%20diseases>.

1 airplanes crashing every single day for the entire year.⁸

2 13. In the face of this continuing public health crisis and in response to the youth e-
3 cigarette use epidemic, Congress raised the federal age of sale for tobacco products to 21 on
4 December 20, 2019.⁹ See 21 U.S.C. § 387f(d)(3)(A); 21 C.F.R. § 1140.14.

5 14. Nicotine is highly addictive. As far back as 1988, the United States Surgeon General
6 declared nicotine is the drug in tobacco products that causes addiction. People under the age of 25
7 are more susceptible to addiction because their brains are not fully developed.¹⁰

8 15. Over 85% of all tobacco users begin using tobacco before the age of 18 and
9 approximately 95% begin using before the age of 21.¹¹ Preventing youth access to tobacco
10 products in the retail environment is a critical step in preventing youth from starting the path to
11 tobacco addiction, disease, and early death.

12 16. The use of colorful displays, images appealing to youth, trendy references, and cost-
13 saving deals promote the use of tobacco products among youth.¹²

14 17. To help prevent Arizona youth from accessing tobacco and nicotine products, the
15 State runs two youth tobacco inspection programs. The Arizona Attorney General's Office
16 ("AGO") runs the Counter Strike program ("AGO Program") and the Arizona Department of
17 Health Services runs the FDA Tobacco Inspection program ("FDA Program"). Youth volunteers
18 with both programs enter tobacco retailers under the supervision of state law enforcement officers
19

20 ⁸ Boeing 737 MAX, *About the Boeing 737 MAX family, Technical Specs*,
21 <https://www.boeing.com/commercial/737max#overview> (last visited May 1, 2025) (showing
Boeing's 737 MAX passenger plane carries 172-230 people).

22 ⁹ Also, on June 27, 2025, Arizona raised the state minimum age of sale to 21 by signing into
23 law SB1247 which will go into effect on September 26, 2025.

24 ¹⁰ Office of Public Affairs and Communications, Yale School of Medicine, *Adolescents Are*
Neurologically More Vulnerable to Addictions (June 18, 2003), [https://medicine.yale.edu/news-](https://medicine.yale.edu/news-article/adolescents-are-neurologically-more-vulnerable-to-addictions/)
25 [article/adolescents-are-neurologically-more-vulnerable-to-addictions/](https://medicine.yale.edu/news-article/adolescents-are-neurologically-more-vulnerable-to-addictions/).

26 ¹¹ Centers for Disease Control and Prevention, *Youth and Tobacco Use* (Oct. 17, 2024),
<https://www.cdc.gov/tobacco/php/data-statistics/youth-data-tobacco/index.html>.

27 ¹² Packaging Gateway, *The power of packaging colours: influencing kids' buying behavior*
28 (Sept. 26, 2023), [https://www.packaging-gateway.com/features/packaging-colours-influencing-](https://www.packaging-gateway.com/features/packaging-colours-influencing-kids-behaviour/?cf-view)
[kids-behaviour/?cf-view](https://www.packaging-gateway.com/features/packaging-colours-influencing-kids-behaviour/?cf-view).

1 or federal inspectors and attempt to buy tobacco or nicotine products. If the store sells a tobacco
2 product to an underaged individual, they may face state criminal citations and federal regulatory
3 penalties. Inspections by both Programs are conducted year-round at randomly selected locations
4 and in response to community complaints. AGO Program inspections are conducted with youth
5 volunteers under the age of 18. Any inspection that results in a State citation is conducted using a
6 youth volunteer under the age of 18.¹³ FDA Program inspections are conducted with youth under
7 the age of 21 who are often also under the age of 18.

8 18. A business or individual that fails an AGO Program inspection may face fines or
9 other penalties. As a diversion option, the AGO Program offers the Arizona Retail Tobacco
10 Training (ARTT), a tobacco education class. Since 2013, the AGO Program has worked closely
11 with County Attorney's Offices, Justice Courts, and health departments to implement and
12 maintain ARTT. The goal of this class is to provide retailers and retail employees with in-depth
13 knowledge of the laws that apply to tobacco and nicotine products in the retail environment and
14 the critical public health role that tobacco retail employees play in keeping tobacco and nicotine
15 products out of the hands of youth. The class has been a key component in bringing stores with a
16 single tobacco violation back into compliance.

17 **II. Repeated and Continuous Harm to Arizona Youth**

18 ***a. Advertising***

19 19. As seen on its Google webpages, Pro Source
20 uses displays of brightly colored T-shirts and backpacks
21 sporting the logos of popular youth-oriented brands and
22 images in order to appeal to youth.

23 20. Pro Source does not prohibit individuals under
24 the legal age of sale from entering their shops.¹⁴ Inside the
25



Figure 1: Screenshot of photo from Google business profile of Shop 1 (captured June 18, 2025)

26 ¹³ Following the increase in the state legal age of sale to 21, AGO Program protocols may
27 change to increase the age of the youth volunteers to youth under the age of 21.

28 ¹⁴ Only one shop posted a sign on the exterior of the entrance door warning that the legal age
of purchase is 21 and gives the standard "We Card" admonishment, but neither of the other two

1 store, underaged individuals find displays of tobacco and vape products in a
2 vast array of vibrant colors. Examples of these displays are found in more
3 than 100 images posted on the Google business profiles of the three shops.
4 Use of bright colors are a proven advertising tactic to appeal to youth.¹⁵

5 21. The interior walls of the shop are decorated with popular neon
6 light strips, products covered with graphic, cartoon-like images and row
7 after row of colorful products, many featuring flavors that appeal to a
8 youthful sweet tooth.

9 22. A cooler stocked with sodas and energy drinks is just inside
10 the front door of one shop reinforcing the appeal to a young person's taste
11 for sweets. According to the CDC, up to 50% of adolescents consume
12 energy drinks.¹⁶

13 23. Displays throughout each shop feature bold colors and themes that appeal to youth.
14 In Shop 1 – Scottsdale, colorful anime and cartoon themed-keychains adorn the counter in an eye-
15 catching display sure to appeal to youth consumers.



Figure 3: Screenshot from under cover video taken June 11, 2025 at Shop 1.



Figure 2: Screenshot of photo from Google business profile of Shop 1 (captured June 18, 2025)

16 shops displayed any signage indicating the legal age of purchase either inside or outside of the
17 shops.

18 ¹⁵ See *supra* note 10.

19 ¹⁶ See <https://www.cdc.gov/school-nutrition/energy-drinks/index.html> last visited 7/01/2025.

1 24. Among the colorful photos posted on its Google business profiles for its three shops,
2 Pro Source prominently features special deals and discount pricing. Underaged tobacco
3 consumers are known to be especially price sensitive. Price discounting is a tactic proven to be
4 effective at appealing to youth consumers.¹⁷



5
6
7
8
9
10
11
12
13 Figure 4: Screenshot from photo on Google Business Profile for

25. Finally, nowhere inside the three
shops nor within the 100+ images posted on
the Google business profiles of the three
shops is there any signage warning that sales
of tobacco products to persons under the
specified age is illegal, warnings about the
addictive nature of nicotine, nor the required
Surgeon General's warnings for tobacco
advertising.

14 **b. Sales**

15 26. Pro Source failed ten out of fifteen AGO Program compliance inspections during
16 the last eight years, received ten citations (in addition to ten citations issued to individual clerks),
17 received at least three warning letters from the FDA Program, received at least four civil money
18 penalties from the FDA Program, paid at least one fine to an Arizona Justice Court, and was
19 offered the ARTT diversion program multiple times in lieu of fines.

20 27. From December 2016 through May 2025, tobacco retailers across the state of
21 Arizona failed AGO Program inspections 2,041 times out of 16,233 inspections, for an average
22 state-wide failure rate of 13%. In contrast, Pro Source has a 67% failure rate.

23 28. In 2016 the AGO received reports from Scottsdale Police Department ("SPD") that
24 concerned citizens were reporting to SPD that Pro Source was selling tobacco and vapor products
25 to underaged individuals.

26
27 ¹⁷ Truth Initiative, *The Truth About the Tobacco Industry and the Retail Environment*
28 (Jan. 23, 2025), <https://truthinitiative.org/research-resources/tobacco-industry-marketing/truth-about-tobacco-industry-and-retail-environment>.

1 29. On December 1, 2016, at approximately 7:10 p.m., the AGO Program conducted a
2 youth compliance inspection at the Pro Source Shop located in Scottsdale (“Shop 1”). The youth
3 volunteer, aged 16, was able to purchase a 4-pack of Juul e-cigarette cartridges, fruit medley
4 flavor, for \$20.00. Citation 1324 was issued to Steven G. Stierman, DOB 02/17/1995. Citation
5 1325 was issued to Pro Source Vapes LLC, holder of Transaction Privilege Tax license 21027148
6 (first citation to Shop 1, first citation to Pro Source). Both Mr. Stierman and Pro Source were
7 offered diversion via ARTT to resolve their citations.

8 30. On February 8, 2017, at approximately 5:10 p.m., the AGO Program conducted a
9 youth compliance inspection at Shop 1. The youth volunteer, aged 17, was able to purchase a Juul
10 e-cigarette device and package of menthol flavored pods for \$60.00. The citing officer noted that
11 multiple individuals who appeared to be under the legal age of sale entered the shop during the
12 inspection and citation process. Citation 1477 was issued to the defendant Timothy E Kell, DOB
13 04/22/1988. Citation 1478 was issued to Pro Source Vapes LLC, holder of Transaction Privilege
14 Tax license 21027148 (second citation to Shop 1, second citation to Pro Source). Both Mr. Kell
15 and Pro Source resolved their citations through ARTT. As the owner of Pro Source, Mr. Kell may
16 have been given the opportunity to resolve his personal citation and the business citation through
17 attendance at a single ARTT class.

18 31. On June 13, 2017 and December 21, 2017, the AGO Program conducted youth
19 tobacco inspections at Shop 1 and no tobacco product was sold to the youth volunteer on either
20 occasion. This six-month period is the only time during an eight-year period that Shop 1 was
21 compliant upon inspection.

22 32. On approximately December 13, 2017, SPD received a complaint that Pro Source
23 was selling tobacco and nicotine products to minors.

24 33. On March 21, 2019, FDA issued a Warning Letter to Pro Source Shop 1 for
25 violations of the federal Tobacco Control Act, including sale of a tobacco product to a person
26
27
28

1 under 18 years of age.¹⁸

2 34. On November 26, 2019, at approximately 3:51 p.m., the AGO Program conducted
3 a youth compliance inspection at Shop 1. The youth volunteer, aged 16, was able to purchase a
4 mango flavored Puff Bar for \$9.72. Citation 3140 was issued to Jude Alexander Torres, DOB
5 02/28/2001. Citation 3141 was issued to Pro Source Vapes, LLC, holder of Transaction Privilege
6 Tax license 21027148 (third citation to Shop 1, third citation to Pro Source). Mr. Torres was given
7 the opportunity to resolve his citation through ARTT.

8 35. On February 6, 2020, FDA issued a civil money penalty to Shop 1 in the amount of
9 \$285.00 for violations of the federal Tobacco Control Act, including sale of a tobacco product to
10 a person under 21 years of age.

11 36. On April 7, 2022, at approximately 5:11 p.m., the AGO Program conducted a youth
12 compliance inspection at Shop 1. The youth volunteer, aged 16, was able to purchase an Aegis e-
13 cigarette kit and Cotton Candy flavored nicotine e-liquid for \$60.00. The store manager onsite
14 informed the citing officer that the store was refusing to comply with the federal age of sale which
15 was raised on December 20, 2019 to 21. The manager further stated that the “state law is 18.”
16 However, the 16-year-old youth volunteer was not asked to produce identification to prove that
17 he was over either 18 or 21. Citation 3834 was issued to Andrew Michael Bleyhl, DOB
18 01/28/2003. Mr. Bleyhl plead guilty and was issued a fine of \$222.00. Citation 3835 was issued
19 to Pro Source Vapes LLC, holder of Transaction Privilege Tax license 21027148 (fourth citation
20 to Shop 1, fourth citation to Pro Source). Pro Source resolved their citation through diversion with
21 ARTT.

22 37. On March 16, 2023, FDA issued a second Warning Letter to Shop 1 for violations
23 of the federal Tobacco Control Act including failure to verify age and sale of a tobacco product
24 to a person under 21 years of age.

25 38. On May 4, 2023, at approximately 7:06 p.m., the AGO Program conducted a youth
26

27 ¹⁸ The federal age of sale for tobacco products increased from 18 to 21 on December 20,
28 2019.

1 compliance inspection at the Pro Source Shop located in Glendale (“Shop 2”). The youth
2 volunteer, aged 16, was able to purchase a package of Swisher Sweets cigars for \$1.63. Citation
3 4337 was issued to Lorenzo A Lewis, DOB 11/14/1991. Citation 4338 was issued to Pro Source
4 Supply LLC, holder of Transaction Privilege Tax license 21496651 (first citation issued to Shop 2,
5 fifth citation issued to Pro Source). Both Mr. Lewis and Pro Source resolved their citations through
6 ARTT.

7 39. On May 23, 2023, FDA issued a Warning Letter to Shop 2 for violations of the
8 federal Tobacco Control Act including failure to verify age and sale of a tobacco product to a
9 person under 21 years of age (first Warning Letter to Shop 2, third Warning Letter to Pro Source).

10 40. On August 10, 2023, at approximate 5:57 p.m., the AGO Program conducted a
11 youth compliance inspection at Shop 1. The youth volunteer, aged 17, was able to purchase a Lost
12 Mary e-cigarette for \$18.00. Citation 4449 was issued to Jordan L. Clowes, DOB 03/02/1995.
13 Citation 4450 was issued to Pro Source Vapes (fifth citation to Shop 1, sixth citation to Pro
14 Source). Mr. Clowes resolved his citation through ARTT.

15 41. On August 22, 2023, the AGO Program conducted a youth tobacco inspection at the
16 Pro Source location in Tempe (“Shop 3”) and no tobacco product was sold to the youth volunteer.

17 42. On November 14, 2023, FDA issued a second civil money penalty to Shop 1 in the
18 amount of \$638.00 for violations of the federal Tobacco Control Act, including failure to verify
19 age and sale of a tobacco product to a person under 21 years of age.

20 43. On November 22, 2023, the AGO Program conducted a youth tobacco inspection at
21 Shop 2 and no tobacco product was sold to the youth volunteer.

22 44. On December 7, 2023, AGO Program received a complaint that a 17-year-old and
23 her underaged friends were able to purchase nicotine products at Shop 1.

24 45. On approximately January 29, 2024, SPD received a complaint that Shop 1 was
25 selling tobacco or nicotine products to one or more underaged individuals.

26 46. On March 21, 2024, the AGO Program conducted a youth tobacco inspection at
27 Shop 1 and no tobacco product was sold to the youth volunteer. This was the first compliant
28 inspection result since 2017 for Shop 1. There have been no compliant inspection results since

1 this date.

2 47. On approximately May 24, 2024, SPD received a complaint that Shop 1 was selling
3 “THC weed pens” to eighth grade students who are 14-15 years old.

4 48. On September 3, 2024, at approximately 11:29 a.m., the AGO Program conducted
5 a youth compliance inspection at Shop 1. The youth volunteer, aged 16, was able to purchase a
6 Lost Mary vapor product for \$16.00. Citation 4868 was issued to Cody S Brown, DOB
7 08/29/1995. Citation 4869 was issued to Pro Source (sixth citation to Shop 1, seventh citation to
8 Pro Source). Mr. Brown resolved his citation through ARTT. Pro Source plead guilty and paid a
9 fine of \$222.00.

10 49. On September 6, 2024, FDA issued a civil money penalty to Shop 2 in the amount
11 of \$687.00 for violations of the federal Tobacco Control Act, including failure to verify age and
12 sale of a tobacco product to a person under 21 years of age.

13 50. On November 26, 2024, FDA issued a third civil money penalty to Shop 1 (fourth
14 civil money penalty to Pro Source) in the amount of \$6,892.00 for violations of the federal
15 Tobacco Control Act, including failure to verify age and sale of a tobacco product to a person
16 under 21 years of age.

17 51. On March 11, 2025, at approximately 6:52 p.m., the AGO Program conducted a
18 youth compliance inspection at Shop 3. The youth volunteer, aged 17, was able to purchase a
19 Geek Bar vapor product for \$18.00. Citation 5122 was issued to Charlotte C. Ambrosio, DOB
20 06/12/2005. Citation 5123 was issued to Pro Source (first citation to Shop 3, eighth citation to Pro
21 Source). Both Ms. Ambrosio and Pro Source were offered the opportunity to resolve their citations
22 with ARTT.

23 52. On March 18, 2025, at approximately 4:50 p.m., the AGO Program conducted a
24 youth compliance inspection at Shop 2. The youth volunteer, aged 17, was able to purchase a
25 Geek Bar vapor product for \$15.00. Citation 5138 was issued to Rebekkah A. Brand, DOB
26 09/29/2003. Citation 5139 was issued to Pro Source Supply LLC, holder of Transaction Privilege
27 Tax license 21496651 (second citation to Shop 2, ninth citation to Pro Source). Both Ms. Brand
28 and Pro Source were offered the opportunity to resolve their citations with ARTT.

53. On April 21, 2025, the AGO Program received a complaint stating that underaged individuals as young as 14 are able to purchase nicotine products at Shop 1 without presenting identification.

54. On May 20, 2025, at approximately 5:12 p.m., the AGO Program conducted a youth compliance inspection at Shop 1. The youth volunteer, aged 17, was able to buy a Geek Bar vapor product for \$15.00. Citation 5219 was issued to Hannah L. Ellis-Ritchie, DOB 04/22/2003. Citation 5220 was issued to Pro Source Supply LLC, holder of Transaction Privilege Tax license 21496651 (seventh citation to Shop 1, tenth citation to Pro Source). Disposition on both cases is pending as of this writing.

55. In spite of attending ARTT multiple times as a business, as well as ARTT attendance by at least five employees and the owner, Timothy Kell, to resolve individual citations; and despite receiving multiple citations, warnings, and multiple civil money penalties from FDA, including one in the amount of \$6,892.00, Pro Source continues to sell tobacco and nicotine products to individuals under the age of 21 during compliance inspections.

COUNT 1

VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT, A.R.S. § 44-1521 *et seq.*

UNFAIR ACTS OR PRACTICES

(Defendants Pro Source and Timothy Kell)

56. The State repeats and realleges all prior allegations of this Complaint as though fully set forth herein.

57. ACFA prohibits, among other things, “unfair act[s] or practice[s] in connection with the sale or advertisement of any merchandise.” A.R.S. § 44-1522(A). The Arizona Legislature’s express intent is that Arizona courts, when interpreting A.R.S. § 44-1522(A), may use as a guide, interpretations of 15 U.S.C. §§ 45, 52, and 55(a)(1) given by the Federal Trade Commission (“FTC”) and federal courts. A.R.S. § 44-1522(C).

58. Defendants' conduct described throughout this Complaint constitutes unfair acts or practices prohibited by ACFA.

59. Defendants' violations of ACFA were willful because Defendants knew or should have known that their conduct was of the nature prohibited by A.R.S. § 44-1522. A.R.S. § 44-1531(B).

60. Defendants are “person[s]” within the meaning of, and subject to, the provisions of ACFA. A.R.S. § 44-1521(6).

61. The goods Defendants sell, described above, are “merchandise” under A.R.S. § 44-1521(5).

62. Defendants’ unlawful practices, as described herein, occurred “in connection with the sale or advertisement” of the merchandise described herein. *See* A.R.S. § 44-1521(1), (7).

63. The practice of selling tobacco and nicotine products to underage persons caused or is likely to cause substantial injuries to consumers that were not reasonably avoidable by consumers and were not outweighed by countervailing benefits to consumers or to competition.

64. The State seeks all legal and equitable relief as allowed by law, including, *inter alia*, restitution, disgorgement, injunctive relief, attorneys' fees and costs of investigation and prosecution of this action, all appropriate civil penalties and fees, and any other relief to which the State may be entitled.

COUNT 2

VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT, A.R.S. § 44-1521 *et seq.*

MISREPRESENTATION OR CONCEALMENT OF MATERIAL FACTS

(Defendants Pro Source and Timothy Kell)

65. The State realleges all prior allegations of this Complaint as though fully set forth herein.

66. The conduct described in the preceding paragraphs of this Complaint constitutes deception, fraud, false pretenses, false promises, misrepresentations, or concealment, suppression or omission of material facts with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of merchandise in violation of A.R.S. §§ 44-1521 to -1534, including, but not limited to:

1 a. Defendants Pro Source and Kell engaged in deceptive and unfair acts and
2 practices by misrepresenting impliedly or expressly that the sale of tobacco products to
3 persons under the lawful age of sale in Arizona is legal by repeatedly selling tobacco
4 products to persons under the lawful age of sale in violation of A.R.S. § 13-3622;

5 b. Defendants Pro Source and Kell engaged in deceptive and unfair acts and
6 practices by concealing, suppressing, or omitting the material fact that sales of tobacco
7 products to persons under the lawful age of sale is illegal by repeatedly selling to persons
8 under the lawful age of sale as though such sales are legal, and did so with intent that others
9 rely on such concealments, suppressions, or omissions; and

10 c. Defendants Pro Source and Kell engaged in deceptive and unfair acts and
11 practices by repeatedly selling tobacco products to persons under the lawful age of sale
12 misleading them on the risks associated with tobacco consumption by failing to prevent
13 persons under the lawful age of sale from purchasing tobacco products which are known
14 to be harmful to the health of young persons, thereby deceptively implying that such
15 products did not pose a dangerous risk of harm to these young buyers.

16 d. Indeed, Defendants Pro Source and Kell engaged in deceptive and unfair acts
17 and practices by: (1) selling products that are unsafe for persons under the lawful age of
18 sale to such persons without taking adequate measures to avoid access to these products by
19 such persons; (2) ignoring evidence of patrons being underage or failing to check
20 identification that clearly indicated such persons as being underage; and (3) failing to post
21 signage to warn such persons of the legal age of sale, the addictive nature of nicotine, or
22 the harmful effects of the use of tobacco products.

23 67. While engaging in the acts and practices alleged in this Complaint, Defendants knew
24 or should have known that their conduct was of the nature prohibited by A.R.S. § 44-1522,
25 subjecting themselves to enforcement and penalties as provided in A.R.S. § 44-1531(A).

26 68. With respect to the concealments, suppressions, or omissions of material fact
27 described above, Defendants did so with intent that others rely on such concealments,
28 suppressions, or omissions.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE, the State respectfully requests that the Court:**

- 3 a. Find Defendants liable on all counts in this Complaint;
- 4 b. Pursuant to A.R.S. § 44-1531, order Defendants to pay to the State of Arizona a civil
5 penalty of up to \$10,000 for each willful violation by each Defendant of A.R.S. § 44-
6 1522, in amounts to be proved at trial;
- 7 c. Pursuant to A.R.S. § 44-1528(A)(3), order Defendants to disgorge all profits, gains,
8 gross receipts, or other benefits obtained as a result of their unlawful acts alleged
9 herein, in amounts to be proved at trial;
- 10 d. Pursuant to A.R.S. § 44-1528(A)(2), order Defendants to restore to all persons in
11 interest any monies or property, real or personal, in amounts to be proved at trial, which
12 may have been acquired by any means or any practice in this article declared to be
13 unlawful;
- 14 e. Dissolve Pro Source Supply LLC, Pro Source Vape LLC, and Pro Source CBD LLC;
- 15 f. Pursuant to A.R.S. § 44-1528(A)(1), issue a permanent injunction in accordance with
16 Ariz. R. Civ. P. 65(d)(1), enjoining and restraining (a) Defendants, (b) their officers,
17 agents, servants, employees, attorneys, and (c) all persons in active concert or
18 participation with anyone described in part (a) or (b) of this paragraph, directly or
19 indirectly, from engaging in deceptive, misleading, or unfair acts or practices, or
20 concealments, suppressions, or omissions, that violate the ACFA, A.R.S. § 44-
21 1522(A), including specific injunctive relief barring Defendants from engaging in the
22 unlawful acts and practices set forth above;
- 23 g. Pursuant to A.R.S. § 44-1528(A)(4), issue a permanent injunction, enjoining and
24 restraining Defendants from engaging in any activity, business, or enterprise involving
25 the sale of products containing tobacco or nicotine, except for the purchase of such
26 products for the Defendants' own personal use;
- 27 h. Pursuant to A.R.S. § 44-1534, order Defendants to reimburse the State for its costs and
28 attorneys' fees incurred in the investigation and prosecution of Defendants' activities

1 alleged in this Complaint; and

2 i. Award the State such other relief as the Court deems just and proper.

3
4 DATED this 7th of July, 2025.

5
6 **KRISTIN K. MAYES**
7 ATTORNEY GENERAL

8 By: /s/ Jane S. Fallon
9 Erika Mansur
10 Jane S. Fallon
11 Liza Lawson
12 Assistant Attorneys General
13 *Attorneys for Plaintiff State of Arizona*