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13 Attorneys for Defendants
 U.S. DEPARTMENT OF AGRICULTURE and
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 14

15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN FRANCISCO DIVISION

18 DAVID MA dba
 19 GOLDEN MOUNTAIN MARKET,)
 20 Plaintiff,)
 21 v.)
 22 U.S. DEPARTMENT OF AGRICULTURE)
 and UNITED STATES OF AMERICA,)
 23 Defendants.)
 24

No. CV 10-2664 SI

**STIPULATION AND [PROPOSED]
 ORDER FOR LEAVE TO FILE FIRST
 AMENDED COMPLAINT; EXHIBIT A**

25 Subject to the approval of the court, the parties stipulate that plaintiff will have leave to
 26 //
 27 //
 28 //

STIPULATION AND [PROPOSED] ORDER FOR LEAVE TO FILE FIRST AMENDED
 COMPLAINT; EXHIBIT A
 CV 10-2664 SI

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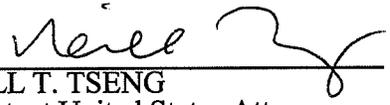
file the First Amended Complaint attached hereto as Exhibit A.

DATED: 11/5/10


PETER CHAO
Attorney for Plaintiff

MELINDA HAAG
United States Attorney

DATED: 11/8/10


NEILL T. TSENG
Assistant United States Attorney
Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED:

DATED:


HON. SUSAN ILLSTON
United States District Judge

EXHIBIT A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

12 DAVID MA dba
13 GOLDEN MOUNTAIN MARKET

14 Plaintiff,

15 vs.

16 U.S. DEPARTMENT OF
17 AGRICULTURE, UNITED STATES, and
18 Does 1-10.

19 Defendants.

CV 10-2664

**FIRST AMENDED
COMPLAINT FOR
PRELIMINARY AND
PERMANENT INJUNCTIONS,
VIOLATION OF EQUAL
PROTECTION, AND
DAMAGES.**

21 Plaintiff, DAVID MA, alleges:

22
23 **FIRST CAUSE OF ACTION – PRELIMINARY AND PERMANENT INJUNCTION**

24 1. Plaintiff, DAVID MA, is and at all times mentioned in this complaint was the owner of a
25 market located at 846 Jackson St., San Francisco, CA 94133.

1 2, DAVID MA is Chinese and operates a Chinese market selling gourmet Chinese food
2 items in San Francisco Chinatown, Mr. Ma is a food vendor for the Supplemental Nutrition
3 Assistance Program (SNAP) operated by the U.S. Department of Agriculture (USDA), Food
4 and Nutrition Service (FNS). Approximately, 20% of Mr. Ma's income comes from SNAP
5 sales and the premature barring of Mr. Ma from the SNAP threatens his right to continue
6 conducting an established business.

7
8 3. Defendants, U.S. Department of Agriculture and United States are, and at all times
9 mentioned in this complaint were, operating a Supplemental Nutrition Assistance Program
10 (SNAP) which provided food to low-income individuals .

11 4. Defendants Doe I through Doe 10, inclusive, are sued in this complaint under
12 fictitious names. Their true names and capacities are unknown to Plaintiff when their true
13 names and capacities are ascertained, Plaintiff will amend this complaint.

14
15 5. Beginning on or about November 17, 2009 and continuing to the present, defendants,
16 and each of them, wrongfully and unlawfully terminated Golden Mountain Market's right to be
17 a vendor in the SNAP.

18
19 6. On or about December 21, 2009, Plaintiff, DAVID MA, has demanded that
20 defendants stop their wrongful conduct described above. Defendants, and each of them have
21 refused and still refuse to refrain from their conduct.

22
23 7. Defendants wrongful conduct, unless and until enjoined and restrained by order of
24 this court, will cause great and irreparable injury to Plaintiff as it will be extremely financially
25 detrimental to the continued operation of Golden Mountain Market.

1 8. Plaintiff has no adequate remedy at law for the injuries presently being suffered
2 because Plaintiff David Ma may be forced to close his business.

3 9. Plaintiff has already permanently suffered financial losses in an amount that will be
4 ascertained at trial.

5
6 SECOND CAUSE OF ACTION - VIOLATION OF EQUAL
7 PROTECTION – U.S. CONSTITUTION, 14th AMENDMENT,
8 SECTION 1.

9 10. Plaintiff, DAVID MA, is Chinese and alleges that defendants have violated Section
10 1 of the 14th Amendment to the U.S. constitution in relevant part, "...nor shall any state deprive
11 any person of life liberty, or property, without due process of law nor deny to any person within
12 its jurisdiction the equal protection of the laws." because of discriminatory enforcement of the
13 laws by defendants.

14
15 11. Plaintiff runs a market which caters to selling specialty food items to low income
16 Chinese. His market Golden Mountain is being treated in a discriminatory manner by
17 defendants.

18
19 12. Plaintiff alleges that while on the SNAP, his market sold significant volume of food
20 items to Chinese and was reprimanded by USDA. However, other markets were treated
21 differently and not severely punished for the same violations of the SNAP.

22
23 13. Plaintiff, DAVID MA, is Chinese and maintains the discrimination is invidious and
24 subject to "strict scrutiny" by this court.

1 WHEREFORE, Plaintiff prays judgment against defendants, and each of them, as
2 follows:

- 3 1. For an order requiring defendants to show cause, if any they have why they should
4 not be enjoined as set forth in this complaint, during the pendency of this action.
5
6 2. For a preliminary injunction, and a permanent injunction all enjoining defendants and
7 each of them, and their agents, in concert with them:
8
9 a. From terminating David Ma dba Golden Mountain Market's right to
10 participate in the SNAP.
11
12 3. For damages in an amount to be determined at trial.
13
14 4. For attorney fees.
15
16 5. For costs of suit incurred in this action; and
17
18 6. For such other and further relief as the court deems proper.
19
20
21

Respectfully,

22
23 Dated: 11/4/10


24 PETER CHAO
25 Attorney for David Ma
26

1 **PROOF OF SERVICE BY MAIL**

2
3 I, Lisa Yang, declare:

4 I am over of the age eighteen years, and not a party to the within action. My business
5 address is Chao & Lopez, 975 Corporate Way, Fremont, California 94539, where I am
6 employed. On the date set forth below I served the documents described below in the manner
7 described below:

8 **FIRST AMENDED COMPLAINT FOR PRELIMINARY
9 AND PERMANENT INJUNCTIONS, VIOLATION OF EQUAL
10 PROTECTION, AND DAMAGES.**

11 In the manner identified above on the person (s) listed below:

12 X MAIL – placed in the United States mail at Fremont ,
13 California, first class postage fully prepaid.

14 **Neill T. Tseng, Esq.
15 U.S. Department of Agriculture and
16 United States of America
17 450 Golden Gate Ave.
18 San Francisco, CA 94102-3495**

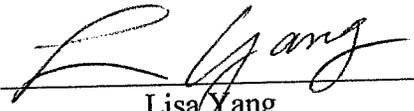
19 – EXPRESS MAIL – consigned such copies in a sealed envelope to an Express
20 mail messenger.

21 – PERSONAL SERVICE – delivered by hand to the address.

22 – FAX – same day delivery by facsimile transmission to the addressee's
23 fax number.

24 I declare under penalty of perjury under the laws of the State of California that the above
25 is true and correct and that this declaration was executed on Nov. 4, 2010 at Fremont, California.
26

27 Dated: 11/04/2010

28 
Lisa Yang

