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Inc., Boohoo.com UK Limited and Bohoo
11 Group PLC

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14 FARID KHAN, an individual, on behalf
15 of himself and all others similarly
16 situated,

Plaintiff,

17 vs.

18 BOOHOO.COM USA INC. a Delaware
19 corporation, BOOHOO.COM UK
LIMITED, a United Kingdom private
20 limited company, BOOHOO GROUP
21 PLC, a Jersey public limited company ,
and DOES 1-100, inclusive,

22 Defendants.

NO. 2:20-cv-03332-GW-JEM

Consolidated for Pretrial Purposes with:

NO. 2:20-cv-04658-GW-JEM

NO. 2:20-cv-04659-GW-JEM

**AMENDED ANSWER TO SECOND
AMENDED CLASS ACTION
COMPLAINT BY DEFENDANTS
BOOHOO.COM USA INC.,
BOOHOO.COM UK LIMITED,
AND BOOHOO GROUP PLC**

The Honorable George H. Wu

Courtroom: 9D

Address: U.S. Courthouse

350 W. First Street

Los Angeles, CA 90012

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ANSWER

Defendants Boohoo.com USA Inc., Boohoo.com UK Limited and Boohoo Group PLC (“Defendants”) hereby answer the Second Amended Class Action Complaint (Dkt. 14) filed by Plaintiff Farid Khan (“Plaintiff” or “Khan”).

I. BACKGROUND

1. Defendants admit that this action is brought against defendants Boohoo.com USA, Inc., Boohoo.com UK Limited, and Boohoo Group PLC.

Defendants deny all remaining allegations of paragraph 1, and specifically deny that they use a deceptive or false pricing scheme.

II. THE PARTIES

2. Defendants lack sufficient knowledge to admit or deny that Farid Khan is a citizen of the State of California and resident of the County of Los Angeles.

3. Defendants admit that Boohoo.com USA, Inc. is a Delaware corporation with its principal place of business in California.

4. Defendants admit the allegations in paragraph 4.

5. Defendants admit that Boohoo Group PLC is a public limited company incorporated in the Island of Jersey. Defendants admit that Boohoo Group PLC is the ultimate parent company of Defendant Boohoo.com UK Limited and Boohoo.com USA Inc. Defendants deny that Defendant Boohoo Group PLC is the “parent company” of “online brands boohoo, boohooMAN, PrettyLittleThing, Nasty Gal, Karen Millen, Coast, and Miss Pap.”

6. Paragraph 6 purports to define the defendants and no response is required.

7. Paragraph 7 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 7.

8. Paragraph 8 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 8.

1 9. Paragraph 9 states legal conclusions to which no response is required.
2 To the extent a response is required, Defendants deny the allegations in paragraph 9.

3 **III. JURISDICTION AND VENUE**

4 10. Paragraph 10 states legal conclusions to which no response is required.
5 To the extent a response is required, Defendants lack sufficient information to admit
6 or deny the allegations in paragraph 10.

7 11. Paragraph 11 states legal conclusions to which no response is required.
8 To the extent a response is required, Defendants lack sufficient information to admit
9 or deny the allegations in paragraph 11.

10 **IV. GENERAL ALLEGATIONS**

11 **A. Company Background**

12 12. Defendants admit that Defendant Boohoo.com UK Limited markets
13 and sells “boohoo” clothing and other products over the internet. Defendants deny
14 the remaining allegations in paragraph 12.

15 13. Defendants admit that Defendant Boohoo.com UK Limited operates an
16 online store for United States customers that can be found at <http://us.boohoo.com>,
17 but Defendants deny that Defendant Boohoo.com USA Inc. operates that website.
18 Defendants deny Plaintiff’s characterization of that website, which speaks for itself.
19 Defendants deny the remaining allegations in paragraph 13.

20 14. Defendants admit that Defendant Boohoo.com UK Limited offers
21 customers a wide range of boohoo apparel, accessories, and other products for both
22 men and women. Defendants deny the remaining allegations in Paragraph 14.

23 **B. Boohoo’s False and Deceptive Pricing Scheme**

24 15. Defendants admit that, in the past, Defendant Boohoo.com UK Limited
25 has displayed some form of sale on its website from time to time. Defendants deny
26 the remaining allegations of paragraph 15.

27 16. Defendants deny the allegations in paragraph 16. Defendants also deny
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1 the characterization of the website, which speaks for itself.

2 17. Defendants deny the characterization of the website, which speaks for
3 itself. Defendants deny the remaining allegations in paragraph 17.

4 18. Defendants deny the characterization of the website, which speaks for
5 itself. Defendants deny the remaining allegations in paragraph 18.

6 19. Paragraph 19 states legal conclusions to which no response is required.
7 To the extent a response is required, Defendants deny the allegations in paragraph
8 19.

9 **C. The Plaintiff's Purchase of Falsely Advertised Items from**
10 **Boohoo.com**

11 20. As to the allegations in paragraph 20 regarding Plaintiff and his
12 understanding of Defendant Boohoo.com UK Limited's website and pricing,
13 Defendants lack sufficient information to admit or deny. Defendants deny the
14 remaining allegations in paragraph 20.

15 21. As to the allegations in paragraph 21 regarding Plaintiff and his
16 understanding of Defendant Boohoo.com UK Limited's website and pricing,
17 Defendants lack sufficient information to admit or deny. Defendants deny the
18 remaining allegations in paragraph 21.

19 22. As to the allegations in paragraph 22 regarding Plaintiff's purchases
20 and his understanding of Defendant Boohoo.com UK Limited's website and pricing,
21 Defendants lack sufficient information to admit or deny. Defendants deny the
22 remaining allegations in paragraph 22.

23 23. As to the allegations in paragraph 23 regarding Plaintiff's purchases
24 and his understanding of Defendant Boohoo.com UK Limited's website and pricing,
25 Defendants lack sufficient information to admit or deny. Defendants deny the
26 remaining allegations in paragraph 23.

27 24. As to the allegations in paragraph 24 regarding Plaintiff's purchases
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1 and his understanding of Defendant Boohoo.com UK Limited’s website and pricing,
2 Defendants lack sufficient information to admit or deny. Defendants deny the
3 remaining allegations in paragraph 24.

4 25. As to the allegations in paragraph 25 regarding Plaintiff’s purchases
5 and his understanding of Defendant Boohoo.com UK Limited’s website and pricing,
6 Defendants lack sufficient information to admit or deny. Defendants deny the
7 remaining allegations in paragraph 25.

8 26. As to the allegations in paragraph 26 regarding Plaintiff and his
9 understanding of Defendant Boohoo.com UK Limited’s website and pricing,
10 Defendants lack sufficient information to admit or deny. Defendants deny the
11 remaining allegations in paragraph 26.

12 **D. Research shows that the Use of Reference Price Advertising**
13 **Schemes Similar to Boohoo’s Deceptive Pricing Scheme Influences**
14 **Consumer Behavior and Affects Consumers’ Perceptions of a**
15 **Product’s Value**

16 27. Defendants deny the allegations in paragraph 27 concerning consumer
17 purchasing behavior as incomplete and/or incorrect statements of matters that are
18 properly the subject of expert testimony. Defendants refer to the publications and
19 the Ninth Circuit decision cited in paragraph 27, which speak for themselves, for
20 their true and complete contents and deny any characterization of the statements by
21 Plaintiff. Defendants deny the remaining allegations in paragraph 27.

22 28. Defendants deny the allegations in paragraph 28 concerning consumer
23 purchasing behavior as incomplete and/or incorrect statements of matters that are
24 properly the subject of expert testimony. Defendants refer to the publication cited in
25 paragraph 28, which speaks for itself, for its true and complete contents and deny
26 any characterization of the statements by Plaintiff. Defendants deny the remaining
27 allegations in paragraph 28.

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1 29. Defendants deny the allegations in paragraph 29 concerning consumer
2 purchasing behavior as incomplete and/or incorrect statements of matters that are
3 properly the subject of expert testimony. Defendants refer to the publication cited in
4 paragraph 29, which speaks for itself, for its true and complete contents and deny
5 any characterization of the statements by Plaintiff. Defendants deny the remaining
6 allegations in paragraph 29.

7 30. Defendants deny the allegations in paragraph 30 concerning consumer
8 purchasing behavior as incomplete and/or incorrect statements of matters that are
9 properly the subject of expert testimony. Defendants refer to the publication cited in
10 paragraph 30, which speaks for itself, for its true and complete contents and deny
11 any characterization of the statement by Plaintiff. Defendants deny the remaining
12 allegations in paragraph 30.

13 31. Defendants deny the allegations in paragraph 31 concerning consumer
14 purchasing behavior as incomplete and/or incorrect statements of matters that are
15 properly the subject of expert testimony. Defendants refer to the publication cited in
16 paragraph 31, which speaks for itself, for its true and complete contents and deny
17 any characterization of the statements by Plaintiff. Defendants deny the remaining
18 allegations in paragraph 31.

19 32. Defendants deny the allegations in paragraph 32 concerning consumer
20 purchasing behavior as incomplete and/or incorrect statements of matters that are
21 properly the subject of expert testimony. Defendants refer to the publications and
22 the Ninth Circuit case referenced in paragraph 32, which speak for themselves, for
23 their true and complete contents and deny any characterization of the statements by
24 Plaintiff. Defendants deny the remaining allegations in paragraph 32.

25 **V. CLASS ACTION ALLEGATIONS**

26 33. Defendants admit that Plaintiff purports to bring a class action lawsuit.
27 Defendants deny the remaining allegations in paragraph 33, and specifically deny
28

1 that this lawsuit should be certified as a class action under Rule 23 of the Federal
2 Rules of Civil Procedure.

3 34. Paragraph 34 purports to define the class, to which no response is
4 required. Defendants deny that this lawsuit should be certified as a class action.

5 35. Defendants admit that Plaintiff purports to bring a class action lawsuit.
6 Defendants deny the remaining allegations in paragraph 35, and specifically deny
7 that this lawsuit should be certified as a class action under Rule 23 of the Federal
8 Rules of Civil Procedure.

9 36. Paragraph 36 purports to define class, to which no response is required.
10 Defendants deny that this lawsuit should be certified as a class action.

11 37. Paragraph 37 states legal conclusions to which no response is required.
12 To the extent a response is required, Defendants deny the allegations in paragraph
13 37 and specifically deny that this lawsuit should be certified as a class action under
14 Rule 23 of the Federal Rules of Civil Procedure.

15 38. **Numerosity.** Paragraph 38 states legal conclusions to which no
16 response is required. To the extent a response is required, Defendants deny the
17 allegations in paragraph 38 and specifically deny that it possesses all information
18 necessary to identify purported class members or any relief to which Plaintiff claims
19 he is entitled, and specifically deny that this lawsuit should be certified as a class
20 action under Rule 23 of the Federal Rules of Civil Procedure.

21 39. **Typicality.** Paragraph 39 states legal conclusions to which no response
22 is required. To the extent a response is required, Defendants deny the allegations in
23 paragraph 39 and specifically deny that this lawsuit should be certified as a class
24 action under Rule 23 of the Federal Rules of Civil Procedure.

25 40. **Adequacy of Representation.** Paragraph 40 states legal conclusions to
26 which no response is required. To the extent a response is required, Defendants deny
27 the allegations in paragraph 40 and specifically deny that this lawsuit should be
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1 certified as a class action under Rule 23 of the Federal Rules of Civil Procedure.

2 41. **Existence and Predominance of Common Questions of Law or**
3 **Fact.** The allegations in paragraph 41, including subparagraphs (a) - (p) state legal
4 conclusions to which no response is required. To the extent a response is required,
5 Defendants deny the allegations in paragraph 41, and specifically deny that this
6 lawsuit should be certified as a class action under Rule 23 of the Federal Rules of
7 Civil Procedure.

8 42. **Superiority.** Paragraph 42 states legal conclusions to which no
9 response is required. To the extent a response is required, Defendants deny the
10 allegations in paragraph 42 and specifically deny that this lawsuit should be certified
11 as a class action under Rule 23 of the Federal Rules of Civil Procedure.

12 43. **Ascertainability.** Paragraph 43 states legal conclusions to which no
13 response is required. To the extent a response is required, Defendants deny the
14 allegations in paragraph 43 and specifically deny that it possesses all information
15 necessary to identify purported class members or any relief to which Plaintiff claims
16 he is entitled, and specifically deny that this lawsuit should be certified as a class
17 action under Rule 23 of the Federal Rules of Civil Procedure.

18 44. Paragraph 44 states legal conclusions to which no response is required.
19 To the extent a response is required, Defendants deny the allegations in paragraph
20 44 and specifically deny that this lawsuit should be certified as a class action under
21 Rule 23 of the Federal Rules of Civil Procedure.

22 **VI. ALTER EGO AND AGENCY RELATIONSHIP BETWEEN THE**
23 **DEFENDANTS**

24 45. Paragraph 45 states legal conclusions to which no response is required.
25 To the extent a response is required, Defendants deny the allegations in paragraph
26 45.

27 46. Paragraph 46 states legal conclusions to which no response is required.
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1 To the extent a response is required, Defendants deny the allegations in paragraph
2 46.

3 47. Paragraph 47 states legal conclusions to which no response is required.
4 To the extent a response is required, Defendants deny the allegations in paragraph
5 47.

6 48. Paragraph 48 states legal conclusions to which no response is required.
7 To the extent a response is required, Defendants deny the allegations in paragraph
8 48.

9 49. Paragraph 49 states legal conclusions to which no response is required.
10 To the extent a response is required, Defendants deny the allegations in paragraph
11 49.

12 50. Paragraph 50 states legal conclusions to which no response is required.
13 To the extent a response is required, Defendants deny the allegations in paragraph
14 50.

15 51. Paragraph 51 states legal conclusions to which no response is required.
16 To the extent a response is required, Defendants deny the allegations in paragraph
17 51.

18 52. Paragraph 52 states legal conclusions to which no response is required.
19 To the extent a response is required, Defendants deny the allegations in paragraph
20 52. Defendants refer to the annual reports cited in paragraph 52, which speak for
21 themselves, for their true and complete contents and deny any characterization of
22 the statements by Plaintiff.

23 53. Paragraph 53 states legal conclusions to which no response is required.
24 To the extent a response is required, Defendants deny the allegations in paragraph
25 53.

26 54. Paragraph 54 states legal conclusions to which no response is required.
27 To the extent a response is required, Defendants deny the allegations in paragraph
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1 54. Defendants refer to the website cited in paragraph 54, which speaks for itself, for
2 its true and complete contents and deny any characterization of the statements by
3 Plaintiff.

4 55. Paragraph 55 states legal conclusions to which no response is required.
5 To the extent a response is required, Defendants deny the allegations in paragraph
6 55. Defendants refer to the investor communication cited in paragraph 55, which
7 speaks for itself, for its true and complete contents and deny any characterization of
8 the statements by Plaintiff.

9 56. Paragraph 56 states legal conclusions to which no response is required.
10 To the extent a response is required, Defendants deny the allegations in paragraph
11 56. Defendants refer to the investor communication cited in paragraph 56, which
12 speaks for itself, for its true and complete contents and deny any characterization of
13 the statements by Plaintiff.

14 57. Paragraph 57 states legal conclusions to which no response is required.
15 To the extent a response is required, Defendants deny the allegations in paragraph
16 57. Defendants refer to Boohoo Group's LinkedIn page cited in paragraph 57, which
17 speaks for itself, for its true and complete contents and deny any characterization of
18 the statements by Plaintiff.

19 58. Paragraph 58 states legal conclusions to which no response is required.
20 To the extent a response is required, Defendants deny the allegations in paragraph
21 58.

22 59. Paragraph 59 states legal conclusions to which no response is required.
23 To the extent a response is required, Defendants deny the allegations in paragraph
24 59. Defendants refer to the annual report cited in paragraph 59, which speaks for
25 itself, for its true and complete contents and deny any characterization of the
26 statements by Plaintiff.

27 60. Paragraph 60 states legal conclusions to which no response is required.
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1 To the extent a response is required, Defendants deny the allegations in paragraph
2 60.

3 61. Paragraph 61 states legal conclusions to which no response is required.
4 To the extent a response is required, Defendants deny the allegations in paragraph
5 61. Defendants refer to the statements cited in paragraph 61, which speaks for itself,
6 for its true and complete contents and deny any characterization of the statements by
7 Plaintiff.

8 62. Paragraph 62 states legal conclusions to which no response is required.
9 To the extent a response is required, Defendants deny the allegations in paragraph
10 62.

11 63. Paragraph 63 states legal conclusions to which no response is required.
12 To the extent a response is required, Defendants deny the allegations in paragraph
13 63.

14 64. Paragraph 64 states legal conclusions to which no response is required.
15 To the extent a response is required, Defendants deny the allegations in paragraph
16 64.

17 65. Paragraph 65 states legal conclusions to which no response is required.
18 To the extent a response is required, Defendants deny the allegations in paragraph
19 65.

20 66. Paragraph 66 states legal conclusions to which no response is required.
21 To the extent a response is required, Defendants deny the allegations in paragraph
22 66.

23 67. Defendants admit that there are no physical Boohoo retail stores in the
24 U.S. Paragraph 67 otherwise states legal conclusions to which no response is
25 required. To the extent a response is required, Defendants deny the remaining
26 allegations in paragraph 67.

27 68. Paragraph 68 states legal conclusions to which no response is required.
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1 To the extent a response is required, Defendants deny the allegations in paragraph
2 68.

3 69. Paragraph 69 states legal conclusions to which no response is required.
4 To the extent a response is required, Defendants deny the allegations in paragraph
5 69. Defendants refer to the statements cited in paragraph 69, which speak for
6 themselves, for their true and complete contents and deny any characterization of
7 the statements by Plaintiff.

8 70. Paragraph 70 states legal conclusions to which no response is required.
9 To the extent a response is required, Defendants deny the allegations in paragraph
10 70. Defendants refer to the statements cited in paragraph 70, which speak for
11 themselves, for their true and complete contents and deny any characterization of
12 the statements by Plaintiff.

13 71. Paragraph 71 states legal conclusions to which no response is required.
14 To the extent a response is required, Defendants deny the allegations in paragraph
15 71.

16 72. Paragraph 72 states legal conclusions to which no response is required.
17 To the extent a response is required, Defendants deny the allegations in paragraph
18 72.

19 73. Paragraph 73 states legal conclusions to which no response is required.
20 To the extent a response is required, Defendants deny the allegations in paragraph
21 73.

22 74. Paragraph 74 states legal conclusions to which no response is required.
23 To the extent a response is required, Defendants deny the allegations in paragraph
24 74.

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1 **VII. CLAIMS FOR RELIEF**

2 **FIRST CLAIM FOR RELIEF**

3 **VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW (CAL. BUS.**
4 **& PROF. CODE § 17200, *et seq.*)**

5 75. Defendants incorporate by reference their responses to paragraphs 1
6 through 74 of the complaint.

7 76. Paragraph 76 states legal conclusions to which no response is required.
8 To the extent a response is required, Defendants deny the allegations in paragraph
9 76.

10 77. Paragraph 77 states legal conclusions to which no response is required.
11 To the extent a response is required, Defendants deny the allegations in paragraph
12 77.

13 78. Paragraph 78 states legal conclusions to which no response is required.
14 To the extent a response is required, Defendants deny the allegations in paragraph
15 78.

16 79. Paragraph 79 states legal conclusions to which no response is required.
17 To the extent a response is required, Defendants deny the allegations in paragraph
18 79.

19 80. Paragraph 80 states legal conclusions to which no response is required.
20 To the extent a response is required, Defendants deny the allegations in paragraph
21 80.

22 81. Paragraph 81 states legal conclusions to which no response is required.
23 To the extent a response is required, Defendants deny the allegations in paragraph
24 81.

25 82. Paragraph 82 states legal conclusions to which no response is required.
26 To the extent a response is required, Defendants deny the allegations in paragraph
27 82.

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1 83. Paragraph 83 states legal conclusions to which no response is required.
2 To the extent a response is required, Defendants deny the allegations in paragraph
3 83.

4 84. Paragraph 84 states legal conclusions to which no response is required.
5 To the extent a response is required, Defendants deny the allegations in paragraph
6 84.

7 85. Paragraph 85 states legal conclusions to which no response is required.
8 To the extent a response is required, Defendants deny the allegations in paragraph
9 85.

10 86. Paragraph 86 states legal conclusions to which no response is required.
11 To the extent a response is required, Defendants deny the allegations in paragraph
12 86.

13 87. Paragraph 87 states legal conclusions to which no response is required.
14 To the extent a response is required, Defendants deny the allegations in paragraph
15 87.

16 88. Paragraph 88 states legal conclusions to which no response is required.
17 To the extent a response is required, Defendants deny the allegations in paragraph
18 88.

19 89. Paragraph 89 states legal conclusions to which no response is required.
20 To the extent a response is required, Defendants deny the allegations in paragraph
21 89.

22 90. Paragraph 90 states legal conclusions to which no response is required.
23 To the extent a response is required, Defendants deny the allegations in paragraph
24 90.

25 91. Paragraph 91 states legal conclusions to which no response is required.
26 To the extent a response is required, Defendants deny the allegations in paragraph
27 91.

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THIRD CLAIM FOR RELIEF
VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES
ACT CAL. CIV. CODE § 1750, *et seq.*

100. Defendants incorporate by reference their responses to paragraphs 1 through 99 of the complaint.

101. Paragraph 101 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 101.

102. Paragraph 102 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 102.

103. Paragraph 103 and its subparagraphs (a)-(b) states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 103.

104. Paragraph 104 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 104.

105. Paragraph 105 states legal conclusions to which no response is required. To the extent a response is required, Defendants deny the allegations in paragraph 105.

106. Defendants admit that Plaintiff sent a letter to Defendants in April 2020 regarding his purchases, but Defendants deny that such a letter complied with the requirements of the California Consumer Legal Remedies Act (“CLRA”). Defendants deny the allegations in that letter and the remaining allegations in paragraph 106.

107. Defendants admit that Plaintiff sent a letter to Defendants in April 2020 regarding his purchases, but Defendants deny that such a letter complied with the

1 requirements of the CLRA. Defendants deny the allegations in that letter and the
2 remaining allegations in paragraph 107.

3 108. Paragraph 108 states legal conclusions to which no response is
4 required. To the extent a response is required, Defendants deny the allegations in
5 paragraph 108.

6 **FOURTH CLAIM FOR RELIEF**

7 **FRAUD (INTENTIONAL MISREPRESENTATIONS)**

8 109. Defendants incorporate by reference their responses to paragraphs 1
9 through 108 of the complaint.

10 110. Paragraph 110 states legal conclusions to which no response is
11 required. To the extent a response is required, Defendants deny the allegations in
12 paragraph 110.

13 111. Paragraph 111 states legal conclusions to which no response is
14 required. To the extent a response is required, Defendants deny the allegations in
15 paragraph 111.

16 112. Paragraph 112 states legal conclusions to which no response is
17 required. To the extent a response is required, Defendants deny the allegations in
18 paragraph 112.

19 113. Paragraph 113 states legal conclusions to which no response is
20 required. To the extent a response is required, Defendants deny the allegations in
21 paragraph 113.

22 114. Paragraph 114 states legal conclusions to which no response is
23 required. To the extent a response is required, Defendants deny the allegations in
24 paragraph 114.

25 115. Paragraph 115 states legal conclusions to which no response is
26 required. To the extent a response is required, Defendants deny the allegations in
27 paragraph 115.

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1 116. Paragraph 116 states legal conclusions to which no response is
2 required. To the extent a response is required, Defendants deny the allegations in
3 paragraph 116.

4 **FIFTH CLAIM FOR RELIEF**
5 **FRAUDULENT CONCEALMENT**

6 117. Defendants incorporate by reference their responses to paragraphs 1
7 through 116 of the complaint.

8 118. Paragraph 118 states legal conclusions to which no response is
9 required. To the extent a response is required, Defendants deny the allegations in
10 paragraph 118.

11 119. Paragraph 119 states legal conclusions to which no response is
12 required. To the extent a response is required, Defendants deny the allegations in
13 paragraph 119.

14 120. Paragraph 120 states legal conclusions to which no response is
15 required. To the extent a response is required, Defendants deny the allegations in
16 paragraph 120.

17 121. Paragraph 121 states legal conclusions to which no response is
18 required. To the extent a response is required, Defendants deny the allegations in
19 paragraph 121.

20 122. Paragraph 122 states legal conclusions to which no response is
21 required. To the extent a response is required, Defendants deny the allegations in
22 paragraph 122.

23 123. Paragraph 123 states legal conclusions to which no response is
24 required. To the extent a response is required, Defendants deny the allegations in
25 paragraph 123.

26 124. Paragraph 124 states legal conclusions to which no response is
27 required. To the extent a response is required, Defendants deny the allegations in
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1 paragraph 124.

2 125. Paragraph 125 states legal conclusions to which no response is
3 required. To the extent a response is required, Defendants deny the allegations in
4 paragraph 125.

5 126. Paragraph 126 states legal conclusions to which no response is
6 required. To the extent a response is required, Defendants deny the allegations in
7 paragraph 126.

8 **SIXTH CLAIM FOR RELIEF**

9 **RESTITUTION FOR UNJUST ENRICHMENT**

10 127. Defendants incorporate by reference their responses to paragraphs 1
11 through 126 of the complaint.

12 128. Paragraph 128 states legal conclusions to which no response is
13 required. To the extent a response is required, Defendants deny the allegations in
14 paragraph 128.

15 129. Paragraph 129 states legal conclusions to which no response is
16 required. To the extent a response is required, Defendants deny the allegations in
17 paragraph 129.

18 130. Paragraph 130 states legal conclusions to which no response is
19 required. To the extent a response is required, Defendants deny the allegations in
20 paragraph 130.

21 131. Paragraph 131 states legal conclusions to which no response is
22 required. To the extent a response is required, Defendants deny the allegations in
23 paragraph 131.

24 **VIII. PRAYER FOR RELIEF**

25 The Prayer for Relief states legal conclusions for which no response is
26 necessary. To the extent a response is required, Defendants deny the allegations in
27 the Prayer for Relief.

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1 Unless specifically admitted above, Defendants deny each and every
2 allegation in the complaint. Defendants further deny that Plaintiff is entitled to
3 judgment in its favor or for any relief, including the relief requested in the Prayer for
4 Relief.

5 **DEFENSES**

6 Without assuming the burden of proof on any matter where that burden rests
7 on Plaintiff, Defendants asserts the following defenses with respect to the complaint,
8 including affirmative defenses.

9 **First Defense**

10 132. The complaint fails, in whole or in part, to state a claim upon which
11 relief can be granted.

12 **Second Defense**

13 133. Plaintiff lacks standing to assert the claims alleged in the complaint.

14 **Third Defense**

15 134. All or part of the claims that Plaintiff asserts are barred by the doctrines
16 of estoppel, laches, unclean hands, waiver and/or acquiescence.

17 **Fourth Defense**

18 135. All or part of the claims that Plaintiff asserts are barred by the
19 applicable statute(s) of limitations and repose.

20 **Fifth Defense**

21 136. The claims of absent class members are barred on an individual basis
22 because the information that Plaintiff claim was deceptive was not material to him.
23 On information and belief, most of Defendants' customers shop at Boohoo because
24 of its competitive pricing, and not because of Boohoo's reference pricing.
25 Purchasing behavior is complex, and the overwhelming majority of Defendants'
26 customers bought items for many different reasons that had no connection to the
27 reference pricing, and without any misunderstanding as to what the Reference Price
28 means.

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Sixth Defense

137. The claims of Plaintiff and/or members of the purported class are barred in whole or in part, by the doctrine of accord and satisfaction. Over the preceding four years, many customers have returned their purchases for a full refund. These customers have no claim.

Seventh Defense

138. Plaintiff’s claims are barred to the extent he would be unjustly enriched by any recovery, including because he received the goods he purchased and did not return them.

Eighth Defense

139. All or part of the claims that Plaintiff asserts should be denied because Plaintiff cannot recover disgorgement of benefits and/or profits.

Ninth Defense

140. Plaintiff’s claims are not appropriate for certification under Rule 23 of the Federal Rules of Civil Procedure.

Tenth Defense

141. If Plaintiff sustained damages, which Defendants specifically deny, Plaintiff’s claims are barred, in whole or in party, because the conduct, actions, or omissions of other persons or entities, over which Defendants had no control, caused or contributed to Plaintiff’s alleged damages.

Eleventh Defense

142. Plaintiff’s claims for equitable relief are barred by the existence of adequate remedies at law, including Plaintiff’s equitable claims under the UCL, FAL, and “restitution for unjust enrichment.”

Twelfth Defense

143. Plaintiff has not been damaged, and Defendants’ conduct did not cause, proximately cause, solely cause, or solely-proximately cause the damages and/or

1 injuries Plaintiff claims.

2 **Thirteenth Defense**

3 144. Plaintiff has failed to plead his claims with sufficient particularity.

4 **Fourteenth Defense**

5 145. The relief Plaintiff seeks is barred, in whole or part, because the
6 conduct complained of is not unlawful, unfair, fraudulent, deceptive, untrue, or
7 misleading.

8 **Fifteenth Defense**

9 146. To the extent Plaintiff seeks punitive damages, Plaintiff fails to allege
10 facts sufficient to entitle him to any award of such damages.

11 **Sixteenth Defense**

12 147. Defendants did not engage in any conduct which would warrant or
13 form a valid basis for an award of punitive damages.

14 **Seventeenth Defense**

15 148. Plaintiff failed to adequately plead and/or allege that Defendants acted
16 with the requisite state of mind to warrant an award of punitive damages.

17 **Eighteenth Defense**

18 149. If Plaintiff sustained injuries or damages as alleged, which Defendants
19 deny, his injuries or damages were the result of intervening and/or superseding
20 causes, and not as a result of acts or omissions by Defendants.

21 **Nineteenth Defense**

22 150. All or part of the claims that Plaintiff asserts are barred in whole or in
23 part because he has not suffered any ascertainable loss of money or property.

24 **Twentieth Defense**

25
26 151. All or part of the claims that Plaintiff asserts are barred in whole or part
27 by the First Amendment to the United States Constitution and the free speech
28 provision of the California Constitution, which protect, among other things,

1 Defendants' right to promote and advertise the products at issue. The statutes upon
2 which Plaintiffs rely, including California Business and Professions Code section
3 17501, unconstitutionally regulate free speech.

4 **Twenty-first Defense**

5 152. Some or all of Plaintiff's claims are not amenable to judicial resolution
6 based on the primary jurisdiction doctrine.

7 **Twenty-second Defense**

8 153. Some or all of Plaintiff's claims are barred by the doctrine of federal
9 preemption.

10 **Twenty-third Defense**

11 154. Plaintiff's claims are barred because he failed to exhaust administrative
12 remedies.

13 **Twenty-fourth Defense**

14 155. Plaintiff's statutory claims are barred for failure to comply with
15 procedural requirements, including but not limited to the procedural requirements
16 set for in Civil Code section 1750 *et seq.*

17 **Twenty-fifth Defense**

18 156. Plaintiff's claims are barred because Defendants were under no duty to
19 disclose any of the purported information Plaintiff alleges was not disclosed.

20 **Twenty-sixth Defense**

21 157. Plaintiff's claims under the California Business & Professions Code
22 section 17200 *et seq.* are exempted by the safe harbor provision in the California
23 Business and Professions Code section 17200 *et seq.* Plaintiff's claims under the
24 California Business & Professions Code section 17500 *et seq.* are exempted by the
25 safe harbor provision in the California Business & Professions Code section 17500
26 *et seq.*

27 **Twenty-seventh Defense**

28 158. All or part of the claims that Plaintiff asserts are void for vagueness

1 under the due process clauses of the United States and California Constitution.

2 **Twenty-eighth Defense**

3 159. Defendants assert that Plaintiff has failed to set forth his claims with
4 sufficient particularity to permit Defendants to raise all separate and affirmative
5 defenses. For this reason, and for others, Defendants reserve the right to amend
6 and/or supplement the averments of their Answer to assert any and all pertinent
7 defenses ascertained through further investigation and discovery or otherwise.
8 Defendants will rely on all defenses that may become available or apparent in
9 discovery or trial.

10 **PRAYER FOR RELIEF**

11 160. Defendants pray that the Court enter judgment that Plaintiff take
12 nothing by its complaint, denying Plaintiff all requested relief, enter an order
13 dismissing all claims with prejudice, and award Defendants such further relief as the
14 Court deems just and proper.

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17 DATED: January 29, 2021

EVERSHEDS SUTHERLAND (US) LLP

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By /s/ Ian S. Shelton

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Ian S. Shelton

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Attorneys for Defendants Boohoo.com
USA Inc., Boohoo.com UK Limited and
Boohoo Group PLC

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