

1 Richard J. Chivaro, SBN 124391
2 David I Brownfield. SBN 266334
3 **OFFICE OF THE STATE CONTROLLER**
4 300 Capitol Mall, Suite 1850
5 Sacramento, CA 95814
6 Telephone: (916) 445-2636
7 Facsimile: (916) 322-1220

8 Attorneys for Plaintiff,
9 JOHN CHIANG, State Controller of California

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF SACRAMENTO**

13 JOHN CHIANG, State Controller of) Case No.
14 California,)
15 Plaintiff,) COMPLAINT TO RECOVER LATE-
16 v.) DELIVERED UNCLAIMED PROPERTY
17)
18) (California Code of Civil
19) Procedure § 1500 et seq.)
20 FRESNO PROTEIN PROCESSORS, INC.;)
21 APPLE VALLEY FARMS, INC.; VALLEY) Exempt from Fees
22 PROTEIN, LLC, and SUCCESSORS, and) (Government Code § 6103)
23 DOES 1 through 25, inclusive,)
24)
25 Defendants.)

26 Pursuant to California Code of Civil Procedure sections 1572, Plaintiff John Chiang, in
27 his official capacity as Controller of the State of California, and the Office of the State
28 Controller, on behalf of the State of California (hereinafter “State Controller” or the
“Controller” or “Plaintiffs”), complain and allege as follows:

INTRODUCTION

1. The Unclaimed Property Law (UPL) (Code of Civil Procedure section 1500, et seq.) was enacted by the Legislature to serve the dual objectives of “protect[ing] unknown owners by locating them and restoring their property to them and to give the state rather than the holders of unclaimed property the benefit of the use of it” *Douglas Aircraft Co. v. Cranston*, (1962) 58 Cal.2d 462, 463.

1 property is “domiciled in this state.” The Defendants are domiciled in this State, and the
2 Defendants are engaged in and conduct substantial business throughout the State.

3 **FACTUAL ALLEGATIONS**

4 16. On or between May 27, 2011, and October 12, 2011, the Clerk of the Superior
5 Court of the State of California in the County of Fresno entered fifty-nine judgments against
6 the Defendants, Fresno Protein Processors, Inc. and Apple Valley Farms, Inc., holding them
7 jointly and severally liable for unpaid wages owed to fifty-nine employees in the total amount
8 of \$247,593.84. A true and correct copy of the judgments are attached to this complaint as
9 Exhibit “A” and incorporated by reference herein.

10 17. On or between May 31, 2011, and September 26, 2011, the fifty-nine
11 aforementioned employees assigned the aforementioned judgments to the Labor Commissioner
12 of the State of California. A true and correct copy of the assignments are attached to this
13 complaint as Exhibit “B” and incorporated by reference herein.

14 18. Plaintiff is informed and believes, and thereupon alleges, that the Defendants
15 have not paid any part of the \$247,593.84.

16 19. Under California’s Unclaimed Property Law, unpaid wages escheat by operation
17 of law one year after the wages become payable. (Code of Civil Procedure section 1513).
18 Thus, \$224,867.60 of the \$247,593.84 in unpaid wages should have been reported to Plaintiff
19 in Sacramento by October 31, 2012; \$22,726.24 of the \$247,593.84 in unpaid wages should
20 have been reported to Plaintiff in Sacramento by October 31, 2013. (Code of Civil Procedure
21 section 1530). Therefore, pursuant to Code of Civil Procedure section 1577, interest at the rate
22 of twelve percent (12%) per annum has accrued on the amount of \$224,867.60 since October
23 31, 2012, and on the amount of \$22,726.24 since October 31, 2013. As of September 2, 2014,
24 the accrued interest on the \$247,593.84 in unpaid wages was \$51,883.08. Interest continues to
25 accrue at a rate of \$81.38 per day.

26 20. On or around September 2, 2014, the Plaintiff sent Defendant Fresno Protein
27 Processors, Inc. and Defendant Apple Valley Farms, Inc. letters by certified mail regarding the
28 aforementioned unpaid wage judgments. In the letters, the Plaintiff demanded the payment of

1 the unclaimed wages in the amount of \$247,593.84 plus interest at a rate of 12% per annum as
2 required by Code of Civil Procedure section 1577. True and correct copies of the letters are
3 attached to this complaint as Exhibit "C."

4 21. To date, Plaintiff has received no payment from the Defendants.

5 **FIRST CAUSE OF ACTION**

6 **VIOLATION OF THE UPL**

7 **(Cal. Code Civ. Proc. §§ 1530, 1532)**

8 **(By Plaintiffs Against All Defendants Including Does 1-25, Inclusive)**

9 22. Plaintiffs repeat and re-allege paragraphs 1 through 20 inclusive, and
10 incorporate the same as if set forth herein at length.

11 23. The State and the people of the State have a property interest in the unclaimed
12 property that Defendants have illegally retained in violation of California's UPL. The
13 Defendants have a duty to examine their records and to report and remit unclaimed property
14 that should have been reported to the Controller pursuant to sections 1530 and 1532 of the
15 California Code of Civil Procedure. Furthermore, the Controller has a duty to identify and
16 return unclaimed wages to the rightful owners pursuant to sections 1501.5 and 1531 of the
17 California Code of Civil Procedure.

18 24. Beginning on or about September 2, 2014, and continuing to the present time,
19 Defendants have wrongfully and unlawfully refused to submit a report pursuant to the UPL and
20 have willfully refused to remit property to the State Controller.

21 25. Despite certified letters being sent to the Defendants, Defendants have refused
22 and still refuse to refrain from wrongful conduct and to otherwise report and remit the property
23 in accordance with California Code of Civil Procedure sections 1530 and 1532.

24 26. Further, Defendants wrongful conduct will cause irreparable injury to the State,
25 and the people of the State, by (i) depriving the Controller of the opportunity to timely identify
26 and attempt to return unclaimed property to the rightful owners pursuant to sections 1501.5 and
27 1531 of the California Code of Civil Procedure, and (ii) depriving the State, and the people of
28 the State, from receiving the beneficial use of unclaimed property.

1 **FOURTH CAUSE OF ACTION**

2 **(Code of Civil Procedure Section 1576)**

3 34. Plaintiff re-alleges and incorporates by this reference each and every allegation
4 contained in paragraphs 1 through 33, inclusive, as though fully set forth herein.

5 35. Despite the Plaintiff’s demand letters by certified mail dated September 2, 2014,
6 Defendants and each of them have continued to fail to deliver the unclaimed escheated wages
7 to the Plaintiff. Defendants’ conduct constitutes willful failure to comply with California’s
8 Unclaimed Property Law under Code of Civil Procedure section 1576.

9 36. Accordingly, pursuant to Code of Civil Procedure section 1576, subdivision (b),
10 Defendants and each of them are subject to a fine of \$50,000 for their willful refusal to deliver
11 escheated property.

12 **WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as**
13 **follows:**

- 14 1. For an award in the principal amount of \$247,593.84;
- 15 2. For interest thereon from the dates specified above corresponding to the
16 specified principal amount until paid, at a rate of 12 percent per annum, according to proof;
- 17 3. For a fine of \$50,000 for the willful refusal to deliver the escheated property
18 described in the Controller’s letters dated September 2, 2014;
- 19 4. For costs of suit incurred herein; and
- 20 5. For any further relief as the court may deem proper.

21
22 Dated: October 22, 2014

OFFICE OF THE STATE CONTROLLER

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24
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26 By: _____

27 DAVID I BROWNFIELD
Attorney for Plaintiff
28 JOHN CHIANG, State Controller of California