

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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O CENTRO ESPÍRITA BENEFICIENTE UNIÃO §
DO VEGETAL (a.k.a. União do Vegetal) (USA), §
Inc. ("UDV-USA"), a New Mexico Corporation §
on its own behalf and on behalf of all its members §
in the United States, JEFFREY BRONFMAN, §
individually and as President of UDV-USA, §
DANIEL TUCKER, individually and as Vice- §
President of UDV-USA, CHRISTINA BARRETO, §
individually and as Secretary of UDV-USA, §
FERNANDO BARRETO, individually and as §
Treasurer of UDV-USA, CHRISTINE BERMAN, §
MITCHEL BERMAN, JUSSARA de ALMEIDA §
DIAS, PATRICIA DOMINGO, §
DAVID LENDERTS, DAVID MARTIN, §
MARIA EUGENIA PELAEZ, BRYAN REA, §
DON ST. JOHN, CARMEN TUCKER and §
SOLAR LAW, individually and as members §
of UDV-USA, §

Plaintiffs, §

v. §

JANET RENO, Attorney General of the §
United States, DONNIE R. MARSHALL, §
Administrator of the United States Drug §
Enforcement Administration, LAWRENCE §
H. SUMMERS, Secretary of the Department §
of Treasury of the United States, NORMAN BAY, §
United States Attorney for the District of New §
Mexico, and JOHN O'TOOLE, Resident Special §
Agent in Charge of the United States Customs §
Service Office of Criminal Investigation in §
Albuquerque, New Mexico, all in their official §
capacities, §

Defendants. §

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No. _____

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CLERK OF COURT

**PLAINTIFFS' ORIGINAL COMPLAINT
FOR DECLARATORY
AND INJUNCTIVE RELIEF**

This is a suit by a Christian religious organization and its members seeking (1) a declaratory judgment that Defendants' interpretation of the statutory and regulatory scheme of the Controlled Substances Act ("CSA"), 21 U.S.C. §§ 801-971 is unlawful and unconstitutional as applied to Plaintiffs in that it burdens their sacramental use of a tea known as *Hoasca* and resulted in Defendants acting beyond their legal authority in carrying out searches and seizures of Plaintiffs' property; (2) an order declaring that *Hoasca* is not a controlled substance under the CSA; (3) an order enjoining Defendants from applying the CSA against Plaintiffs for their sacramental use of the *Hoasca* tea; and (4) an order compelling the return and protection of property seized by federal officers.

PARTIES

1. Centro Espirita Beneficiente União do Vegetal ("UDV") is a religious organization duly formed under the laws of Brazil, with its headquarters in Brasilia, Brazil. The corporate plaintiff in this case is the United States Branch of the UDV, O Centro Espirita Beneficiente União do Vegetal (USA), Inc. ("UDV-USA"). UDV-USA is a New Mexico corporation whose principal office is in the District of New Mexico. UDV-USA brings this action on its own behalf and on behalf of all its members in the United States.

2. Plaintiff Jeffrey Bronfman is President and Representative Mestre of the UDV-USA and is a practicing member. He resides in the District of New Mexico. He brings this action on his own behalf as an adherent of UDV and as the duly authorized officer of UDV-USA.

3. Plaintiff Daniel Tucker is Vice President and a Mestre of the UDV-USA and is a practicing member. He resides in Colorado.

4. Plaintiff Christina Barreto is Secretary and a Counselor of the UDV-USA and is a practicing member. She resides in Texas.

5. Plaintiff Fernando Barreto is Treasurer and a Counselor of the UDV-USA and is a practicing member. He resides in Texas.

6. Plaintiff Christine Berman is a Counselor of the UDV-USA and is a practicing member. She resides in California.

7. Plaintiff Mitchel Berman is a Counselor of the UDV-USA and is a practicing member. He resides in California.

8. Plaintiff Jussara de Almeida Dias is a Counselor of the UDV-USA and is a practicing member. She resides in New Mexico.

9. Plaintiff Patricia Domingo is a Counselor of the UDV-USA and is a practicing member. She resides in California.

10. Plaintiff David Lenderts, M.D., is a practicing member of the UDV-USA and a resident of Colorado.

11. Plaintiff David Martin, M.D., is a Counselor of the UDV-USA and is a practicing member. He resides in the state of Washington.

12. Plaintiff Maria Eugenia Pelaez is a Counselor of the UDV-USA and is a practicing member. She resides in Colorado.

13. Plaintiff Bryan Rea is a Counselor of the UDV-USA and is a practicing member. He resides in Colorado.

14. Plaintiff Don St. John is a Counselor of the UDV-USA and is a practicing member. He resides in the state of Washington.

15. Plaintiff Carmen Tucker is a Counselor of the UDV-USA and is a practicing member. She resides in Colorado.

16. Plaintiff Solar Law is a Counselor of the UDV-USA and is a practicing member. He resides in New Mexico.

17. Defendant Janet Reno is the Attorney General of the United States. She is sued in her official capacity only, in which capacity she is responsible for the enforcement of the CSA. Pursuant to 28 U.S.C. § 1391(e), she may be served by certified mail at the United States Department of Justice, 5111 Main Justice Building, 10th St. and Constitution Ave. N.W., Washington, D.C. 25030.

18. Defendant Donnie R. Marshall is Administrator of the United States Drug Enforcement Administration (“DEA”). He is sued in his official capacity only, in which capacity he is responsible for enforcing and administering the CSA and for promulgating regulations implementing the CSA. Pursuant to 28 U.S.C. § 1391(e), he may be served by certified mail at the DEA, 2401 Jefferson Davis Highway, Alexandria, VA 22301.

19. Defendant Lawrence H. Summers is Secretary of the Department of Treasury of the United States. He is sued in his official capacity only, in which capacity he is responsible for enforcing the customs laws, including CSA provisions governing the importation of controlled

substances. Pursuant to 28 U.S.C. § 1391(e), he may be served by certified mail at 3330 Main Treasury Building, 1500 Pennsylvania Ave. N.W., Washington, D.C. 20220.

20. Defendant Norman Bay is the United States Attorney for the District of New Mexico. He is sued in his official capacity only, in which capacity he is responsible for prosecutions under the CSA in this District. His residence in his official capacity is at U.S. Attorney's Office, 201 Third Street, NW, Suite 900, Albuquerque, NM 87102, where he may be served with process.

21. Defendant John O'Toole is the Resident Special Agent in Charge of the United States Customs Service Office of Criminal Investigation in Albuquerque, New Mexico. He is sued in his official capacity only, in which capacity he is responsible for criminal investigations relating to the laws and regulations enforced by the United States Customs Service, including the CSA. His residence in his official capacity is at 5700 Harper Dr. N.E., Suite 230, Albuquerque, New Mexico 87109, where he may be served with process.

JURISDICTION

22. This Court has jurisdiction under 28 U.S.C. § 1331 because the action arises under the laws and Constitution of the United States. Plaintiffs seek a determination under the standards of the Religious Freedom Restoration Act ("RFRA"), 42 U.S.C. §§ 2000bb-2000bb(4) and the First, Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution of the lawfulness and constitutionality of Defendants' interpretation of the CSA, 21 U.S.C. §§ 801-971, and its implementing regulations as applied to Plaintiffs. This Court is authorized to grant

declaratory relief by the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202. The Court is authorized to grant preliminary and permanent injunctive relief under Fed. R. Civ. P. 65.

VENUE

23. Venue is proper in this Court under 28 U.S.C. § 1391(e) because: (a) all Defendants are officers and employees of the United States and its agencies and were at all relevant times acting in their official capacities and under color of legal authority; (b) at least one Defendant officially resides in this District; (c) the cause of action arose in this District; and (d) a Plaintiff resides in this District and no real property is at issue.

FACTUAL ASSERTIONS

24. The UDV is the religion of the UDV-USA and is protected both by the First Amendment to the United States Constitution and by RFRA, 20 U.S.C. §§ 2000bb-2000bb(4).

25. All of the individual Plaintiffs and all U.S. members of the UDV are sincere adherents of the teachings of the UDV and, in particular, to the UDV's teachings concerning the use of *Hoasca*.

26. As a necessary and essential part of the UDV religious practice, the church members receive communion through the *Hoasca* tea, also known as the *Vegetal*, in their religious ceremonies. The religious use of the *Hoasca* tea is legally recognized and protected under the laws of Brazil. See Opinions of Brazil's Federal Narcotics Council ("CONFEN") (1986 & 1992); Certification from Attorney General for Citizens Rights of Brazil, Dec. 20, 1999.

27. The *Hoasca* tea is made by boiling parts of two plants, *Banisteriopsis Caapi* (known as *Mariri*) and *Psychotria Viridis* (known as *Chacrona*) in water during a ceremony.

The Plaintiffs consider the plant concoction made in accordance with this process to be the sacrament *Hoasca* if it has been prepared during an official ceremony of the UDV known as a *preparo*. Trained religious leaders, known as *mestres*, always supervise the preparation of the sacramental tea during the *preparos*.

28. It is a central and essential tenet of the UDV that its members receive communion by partaking of *Hoasca* tea as a sacrament during religious rites. Through receiving the sacrament of the *Hoasca*, UDV adherents receive the Divine Holy Spirit. For disciples of the UDV, the spirit of the *Hoasca*, a manifestation of Divinity, is present within the tea.

29. These sessions of ritual communion constitute the core forum for the teachings of the religion. Many UDV teachings essential for the followers of this religion to know and understand may only be given in rituals in which the sacrament of the *Hoasca* tea is received.

30. Because UDV considers the *Hoasca* tea to be its central sacrament, a prohibition against partaking in the sacramental ingestion of the tea in the United States would completely prevent UDV members from freely practicing their religion here.

31. While many of the UDV-USA members are American citizens, many such members include Brazilian nationals who reside in the United States and who were either raised within the UDV religion or who have practiced it for decades. These individuals migrated to the United States with the confidence that the United States's tradition of religious tolerance would permit them to continue to exercise their religion freely.

32. UDV has in place methods of controlling and accounting for the receipt and dissemination of all *Hoasca* in the United States. UDV maintains strict internal controls to

ensure that the *Hoasca* sacrament is never used or available outside the context of UDV's sacramental rites.

33. It is alleged that the *Hoasca* tea contains a very small quantity of NN dimethyltryptamine ("DMT"). The Defendants have taken the position with respect to the UDV's use of the *Hoasca* tea that plant material contained in the tea is a Schedule I controlled substance pursuant to 21 U.S.C. § 812(c)(I)(c)(6) and 21 C.F.R. § 1308.11(d)(16) (1999). Severe civil and criminal penalties are prescribed for, *inter alia*, the unlawful importation, possession and distribution of DMT, pursuant to 21 U.S.C. §§ 841-844.

34. Scientists have conducted research on the use of the *Hoasca* tea within the religious context of the UDV and have concluded that the tea is non-addictive, is not harmful to human health, and poses none of the risks commonly found with the use of certain controlled substances. Also, anthropological research has shown that this tea has been used safely in religious contexts for more than 1,500 years.

35. On information and belief, the Defendants interpret the CSA to bar the use of the *Hoasca* tea for sacramental reasons by UDV members. Consistent with such an interpretation, on May 21, 1999, federal officers intercepted a shipment of *Hoasca* sent by the UDV in Brazil to the UDV-USA in care of its President, Mr. Jeffrey Bronfman, Plaintiff, at 176 Valley Dr., Santa Fe, New Mexico.

36. As Representative Mestre of the UDV-USA, Mr. Bronfman is authorized by the UDV to take custody of *Hoasca* and oversee its sacramental use by members of the UDV.

37. After the officers intercepted the shipment of *Hoasca*, Customs Special Agent DeFago obtained a warrant to search Mr. Bronfman's office at 176 Valley Dr., Santa Fe, New Mexico and to seize designated property if found at his office.

38. Mr. Bronfman's office also housed, and continues to house, the United States administrative office of the UDV-USA.

39. On May 21, 1999, federal officers executed the warrant as directed by Special Agent DeFago. Among the officers present were Special Agent B. H. Reimann of the United States Customs Service and other unknown federal agents.

40. The agents searched the premises designated in the warrant and seized, among other things, records and other documents belonging to the UDV-USA, a quantity of the *Hoasca* sacrament and personal papers of Mr. Bronfman.

41. To date, government officers have not arrested any of the Plaintiffs nor charged them with any crime as a result of the interception and seizure of *Hoasca*.

42. However, the U.S. Attorney's Office has conveyed to Plaintiffs that it is considering prosecution of UDV-USA members for violation of the provisions of the CSA barring importation, possession and distribution of DMT, based on the assumption that the plant material in the *Hoasca* contains a small quantity of DMT.

43. Moreover, Defendants have informed Plaintiffs that Defendants are considering destroying the seized *Hoasca* tea and will not provide any assurance to Plaintiffs that it will protect their sacrament.

44. As a result of the seizure of the *Hoasca*, as well as the threat of criminal prosecution, UDV-USA has been compelled to suspend the practice of their religion in the United States. The suspension took effect on May 22, 1999, immediately after the seizure at the Bronfman UDV-USA office. Plaintiffs' counsel has earnestly sought to obtain Defendants' agreement that they will not seek criminal action against Plaintiffs. After numerous discussions and meetings spanning the last year and one half, Defendants had repeatedly promised that a decision was imminent. Plaintiffs had abstained from taking legal action against Defendants because Defendants led them to believe that there was hope Defendants might agree that the law protected their religious practice. However, Defendants, having failed and refused to deliver a decision, are effectively denying Plaintiffs' request. Thus, the time lag between the seizure of the *Hoasca* tea and the filing of this action is attributable to Defendants' delay in this regard. The actions of the Defendants have had a chilling and prohibitive effect on Plaintiffs' exercise of their religion.

45. The Defendants' threat to destroy the *Hoasca* is causing Plaintiffs to suffer both psychologically and spiritually because they consider any such destruction to be sacrilegious and blasphemous.

46. UDV leaders believe the threat of criminal prosecution is real, and rather than risk prosecution they have discontinued the sacramental use of the *Hoasca* tea in the United States.

47. The discontinuation of the sacramental use of the *Hoasca*, the threat of the destruction of the seized *Hoasca*, and the threat of criminal prosecution for engaging in UDV devotional practices substantially burdens the practice of the UDV religion within the meaning of

the law. Without the sacrament, the religion would cease to exist in this country. Indeed, UDV members have already experienced calamitous disruption in their religious practices as a result of the prolonged deprivation of the *Hoasca* sacrament.

48. CSA regulations expressly exempt peyote from the CSA listing of Schedule I controlled substances for members of the Native American Church (“NAC”) and those who supply peyote to NAC members. See 21 C.F.R. § 1307.31. No such exemption exists for Plaintiffs’ use of *Hoasca*.

49. The CSA contains other exceptions permitting the use of controlled substances for purposes such as scientific research and medical use. See, e.g., 21 U.S.C. § 823, 21 C.F.R. §§ 291.505, 1301.26, 1301.32, 1301.34.

COUNT ONE

Violation of the Religious Freedom Restoration Act

50. Congress passed the Religious Freedom Restoration Act in 1993 to prevent the government from burdening the free exercise of religion unless it had a compelling governmental interest in doing so and it accomplished its goal by the least restrictive means.

51. The Defendants consider the sacramental use, including possession, distribution and importation of the *Hoasca* tea by UDV members to be a criminal act barred by the CSA and regulations adopted pursuant to that Act.

52. Defendants’ interpretation of CSA substantially burdens Plaintiffs’ exercise of their religion.

53. Defendants' criminalization of Plaintiffs' sacramental use of *Hoasca* serves no compelling governmental interest.

54. Even assuming that Defendants' interpretation of the CSA did serve a compelling governmental interest, a complete ban on the sacramental use of the *Hoasca* tea by UDV members is not the least restrictive means of furthering any such interest.

55. For these reasons, Defendants have violated the statutory rights of UDV members embodied in RFRA, 42 U.S.C. § 2000bb-1(a) (1999).

COUNT TWO

Violation of First Amendment of U.S. Constitution

56. The framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution. The Free Exercise Clause of the First Amendment provides that Congress shall make no law "prohibiting the free exercise" of religion.

57. In Employment Division, Dept. of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990), the U.S. Supreme Court held that a law imposing a substantial burden on religion need not be justified by a compelling governmental interest if it is neutral and of general applicability. However, if that law is either not neutral or is not one of general applicability, it must be justified by a compelling governmental interest that is narrowly tailored to advance that interest.

58. The statutory and regulatory scheme of the CSA is not neutral because it favors the NAC faith above other religions, including that of UDV members.

59. Likewise, the statutory and regulatory scheme of the CSA is not a law of general applicability because it provides immunity to NAC members from the penalties of the CSA, but does not provide immunity to Plaintiffs who are similarly situated.

60. The CSA also provides for numerous other exemptions for scientific research, medical purposes and other circumstances unrelated to the central religious issue raised here. It is therefore in no sense a law of general applicability.

61. Defendants have no compelling governmental interest in applying the CSA to criminalize Plaintiffs' religious use of *Hoasca*.

62. Even if it were assumed that Defendants had a compelling governmental interest in restricting the use of *Hoasca* through the CSA, such an interest could be furthered without prohibiting Plaintiffs' religious use of *Hoasca*. Thus, any such governmental interest could be furthered through less restrictive means.

63. For these reasons, Defendants have violated the First Amendment rights of Plaintiffs.

COUNT THREE

Violation of Equal Protection Clause of the U.S. Constitution

64. Plaintiffs are similarly situated to NAC members in their sacramental use of a substance considered a Schedule I controlled substance under the CSA. Nevertheless, Defendants have refused to accord the same deference to Plaintiffs.

65. Consequently, the Defendants' decision to allow the members of the NAC to use peyote for religious purposes, while denying the same protection to Plaintiffs, violates the Equal

Protection rights of Plaintiffs guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution.

COUNT FOUR

Improper Application of Controlled Substances Act to *Hoasca*

66. Implicit in Defendants' actions complained of herein is Defendants' assumption that the *Hoasca* tea is covered by the CSA as a controlled substance.

67. The CSA does not list *Hoasca*, or the plants from which it is derived, in Schedule I or anywhere else in the Act as a controlled substance.

68. Instead, Defendants assume that because DMT can be extracted from the plant materials used to prepare the tea, the plant materials themselves are Schedule I controlled substances.

69. However, where Congress has sought to designate a plant, rather than a chemical substance, as one restricted under the CSA, it has done so explicitly. For example, the CSA lists the peyote cactus as a Schedule I controlled substance. The CSA lists the chemical agent found in peyote, mescaline, separately.

70. Accordingly, had Congress wanted to designate *Hoasca* as a controlled substance, it would have expressly done so. Congress has made it clear that the scheduling of a chemical does not automatically mean that the plant found to endogenously contain this chemical is scheduled as well.

71. *Hoasca* is made from brewing in water two plants, neither of which is scheduled under the CSA. What is ritually created from this brew is, at a scientific level, a plant concoction not listed under the CSA.

72. *Hoasca* is not a controlled substance.

73. Based upon the erroneous and unlawful determination that *Hoasca* is a controlled substance under the CSA, Defendants have considered criminally prosecuting some or all of Plaintiffs for past possession, distribution and/or importation of the *Hoasca*, have threatened to criminally prosecute Plaintiffs for any future possession, distribution and/or importation of *Hoasca*, have intercepted the shipment of *Hoasca* to Mr. Bronfman on or about May 21, 1999; have searched the Bronfman UDV-USA premises at 176 Valley Dr., Santa Fe, New Mexico; and have seized additional *Hoasca* from those premises and other items on that same day.

74. Defendants' erroneous assumption that *Hoasca* is a controlled substance makes all of the actions described in the preceding paragraph beyond the authority of Defendants and thus unlawful.

COUNT FIVE

Violation of Fourth Amendment

75. There was no fair probability that contraband or evidence of a crime would be found in the container intercepted by Defendants on May 21, 1999 or in the Bronfman UDV-USA offices because possession, receipt and use of *Hoasca* is not unlawful inasmuch as it is not a controlled substance under the CSA.

76. Thus, Defendants had no probable cause to intercept the *Hoasca* shipment on or about May 21, 1999, to search the Bronfman UDV-USA premises at 176 Valley Dr., Santa Fe, New Mexico, or to seize the additional *Hoasca* and other items at these premises.

77. Because Defendants searched and seized the *Hoasca* and other items without probable cause, such search and seizure violated Plaintiff's Fourth Amendment right to be free from unlawful search and seizure.

COUNT SIX

Violation of Fifth Amendment

78. Defendants have seized the *Hoasca* and other items described above from Plaintiffs to assert ownership and control of the property.

79. Defendants provided Plaintiffs no notice or hearing before seizing these items.

80. No extraordinary circumstances justified the failure to provide Plaintiffs pre-deprivation notice and hearing.

81. The seizure of the *Hoasca* and other items deprived Plaintiffs of their rights of ownership and possession of the items and sacramental consumption of the *Hoasca*, in particular, and constituted a violation of the Plaintiffs' rights under the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

COUNT SEVEN

Administrative Procedure Act

82. Defendants' conduct as set forth above constitutes agency action that is: (a) arbitrary and capricious, an abuse of discretion and otherwise not in accordance with the law;

(b) contrary to Plaintiffs' constitutional and statutory rights; (c) in excess of statutory jurisdiction and authority; and (d) without observance of procedures required by law. Such action should be set aside and declaratory and injunctive relief provided under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

COUNT EIGHT

Violation of International Law and Treaties

83. As alleged, Brazil officially and expressly permits UDV members in Brazil to use *Hoasca* tea for religious purposes. See Opinions of Brazil's Federal Narcotics Council ("CONFEN") (1986 & 1992); Certification from Attorney General for Citizens Rights of Brazil, Dec. 20, 1999.

84. The doctrine of comity, as established under international law and recognized in the United States, encourages deference to foreign legal and political judgments to foster international cooperation and encourage reciprocity between the United States and other countries. See *Spatola v. United States*, 925 F.2d 615, 618 (2d Cir. 1991).

85. Federal agencies regularly invoke the doctrine of comity as a guide for decisions that touch on foreign interests.

86. Where "fairly possible," a United States statute should be construed so as not to conflict with international law or an international agreement of the United States. See Restatement (Third) of Foreign Relations Law § 114.

87. The United States is a signatory to the United Nations International Covenant on Civil and Political Rights ("ICCPR"), which ensures the freedom of everyone to "have or to

adopt a religion of his choice, and freedom, either individually or in the community of others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.” ICCPR, 138 Cong. Rec. S4781-84 (1992).

88. The United States has also endorsed the Universal Declaration of Human Rights, which protects the rights of individuals not only to believe as they wish, but also to “manifest” that belief through practice, including “ceremonial acts” and “participation in rituals.” See U.N. Human Rts. Comm., General Comment No. 22, p. 4 (1993).

89. Finally, the United States Congress has recently passed the International Religious Freedom Act (“IRFA”), Pub. L. No. 105-292, 112 Stat. 2788 (1998), codified at 22 U.S.C. §§ 6401-6481. IRFA establishes as United States policy the promotion of freedom of religion and cooperation with foreign governments “that affirm and protect religious freedom, in order to develop multilateral . . . initiatives to . . . promote religious freedom abroad.”

90. These laws make clear that it is not only “fairly possible” for the United States to defer to Brazilian law permitting the religious use of *Hoasca*, but that domestic and international law, in fact, require such deference.

91. Under these circumstances, Defendants’ interpretation of the CSA forbidding the religious use of *Hoasca* by Plaintiffs in the United States clearly violates the doctrine of comity, treaties to which the United States has endorsed, and domestic law.

COUNT NINE

Declaratory Judgment

92. Defendants' interpretation of the CSA as considering *Hoasca* to be a controlled substance as well as forbidding the sacramental use of *Hoasca* by Plaintiffs, as explained in the above Counts, creates an actual controversy within the meaning of 28 U.S.C. § 2201(a).

93. For these reasons, Plaintiffs are entitled to a declaratory judgment that all of the above described actions were and are unlawful and to such additional declaratory relief as described in Plaintiffs' Prayer for Relief.

PRAYER FOR RELIEF

For the reasons set forth above, Plaintiffs seek the following relief:

1. A judgment declaring that Defendants' interpretation of the CSA as barring Plaintiffs' sacramental use of *Hoasca* violates RFRA, 42 U.S.C. §§ 2000bb-2000bb(4), the First and Fourth Amendments to the U.S. Constitution, the Equal Protection Clause of the Fifth and Fourteenth Amendments to the U.S. Constitution and international law.

2. A judgment declaring that the CSA does not apply to *Hoasca* or the plants from which it is derived.

3. A judgment declaring that federal agents who intercepted and seized the *Hoasca* shipment on or about May 21, 1999, and who searched the premises at 176 Valley Dr., Santa Fe, New Mexico, and then seized additional *Hoasca* acted beyond the bounds of their legal authority because *Hoasca* is not a controlled substance under the terms of the CSA.

4. A judgment declaring that the interception and seizure by federal agents of the *Hoasca* on or about May 21, 1999, as well as their search of the premises at 176 Valley Dr., Santa Fe, New Mexico, and resulting additional seizure of *Hoasca* constituted a violation of RFRA and the Administrative Procedure Act as well as the constitutional rights of Plaintiffs under the First, Fourth, Fifth, and Fourteenth Amendments.

5. An order enjoining Defendants from enforcing the CSA against any Plaintiff anywhere within the jurisdiction of the federal courts of the United States for the sacramental use of the *Hoasca* tea, including its possession, consumption, distribution and importation for this purpose.

6. An order compelling Defendants to return to Plaintiff Bronfman the *Hoasca* the United States Customs Service intercepted on or about May 21, 1999, and all things seized from the premises at 176 Valley Dr., Santa Fe, New Mexico.

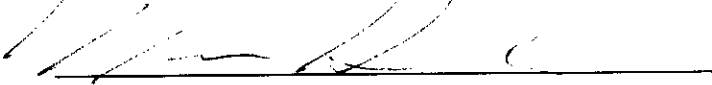
7. An order compelling Defendants to protect the *Hoasca* intercepted on or about May 21, 1999, and seized from 176 Valley Dr., Santa Fe, New Mexico, and prohibiting Defendants from removing, destroying or harming the *Hoasca* in any way.

8. Attorneys fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504.

9. Such other and further relief as is warranted.

Respectfully submitted,

**FREEDMAN BOYD DANIELS
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