

**THE ROSEN LAW FIRM, P.A.**

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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\_\_\_\_\_, INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

CASE No.:  
  
CLASS ACTION

Plaintiff,

**JURY TRIAL DEMANDED**

vs.

THE HAIN CELESTIAL GROUP, INC.,  
IRWIN D. SIMON, and PASDQUALE  
CONTE,

Defendants.  
-----X

Plaintiff \_\_\_\_\_ (“Plaintiff”), individually and on behalf of all other persons similarly situated, by Plaintiff’s undersigned attorneys, for Plaintiff’s Complaint against Defendants (defined below), alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and upon information and belief as to all other matters based on the investigation conducted by and through Plaintiff’s attorneys, which included, among other things, a review of U.S. Securities and Exchange Commission (“SEC”) filings by The Hain Celestial Group, Inc. (“Hain Celestial” or the “Company”), press releases, as well as media and

analyst reports about the Company. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

### **NATURE OF THE ACTION**

1. This is a federal securities class action on behalf of a class consisting of all persons other than Defendants who purchased Hain Celestial securities from November 9, 2015 through August 15, 2016, both dates inclusive (the “Class Period”), seeking to recover compensable damages caused by Defendants’ violations of federal securities laws and pursue remedies under the Securities Exchange Act of 1934 (the “Exchange Act”).

### **JURISDICTION AND VENUE**

2. The claims asserted herein arise under and pursuant to Sections 10(b) and 20(a) of the Exchange Act, (15 U.S.C. §78j (b) and 78t (a)), and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5).

3. This Court has jurisdiction over the subject matter of this action pursuant to §27 of the Exchange Act (15 U.S.C. §78aa) and 28 U.S.C. § 1331.

4. Venue is proper in this District pursuant to §27 of the Exchange Act and 28 U.S.C. §1391(b) as a significant portion of the Defendants’ actions, and the subsequent damages, took place within this District.

5. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

## **PARTIES**

6. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased Hain Celestial securities at artificially inflated prices during the Class Period and has been damaged thereby.

7. Defendant Hain Celestial is a Delaware corporation headquartered in Lake Success, New York. The Company is a leading organic and natural products company with operations in North America, Europe and India. Hain Celestial's ordinary shares trade on NASDAQ under the ticker symbol "HAIN."

8. Defendant Irwin D. Simon ("Simon") has served as the Company's Chief Executive Officer and the Chairman of our Board at all relevant times.

9. Defendant Pasquale Conte ("Conte") served as the Company's Chief Financial Officer and Executive Vice President at all relevant times.

10. Defendants Simon and Conte are sometimes referred to herein as the "Individual Defendants."

11. Defendant Hain Celestial and the Individual Defendants are referred to herein, collectively, as the "Defendants."

12. Each of the Individual Defendants:

- a. directly participated in the management of the Company;
- b. was directly involved in the day-to-day operations of the Company at the highest levels;
- c. was privy to confidential proprietary information concerning the Company and its business and operations;

d. was involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein;

e. was aware of or recklessly disregarded the fact that the false and misleading statements were being issued concerning the Company; and

f. approved or ratified these statements in violation of the federal securities laws.

13. As officers, directors, and controlling persons of a publicly-held company whose securities are and were registered with the SEC pursuant to the Exchange Act, and was traded on NASDAQ and governed by the provisions of the federal securities laws, the Individual Defendants each had a duty to disseminate accurate and truthful information promptly with respect to the Company's business prospects and operations, and to correct any previously-issued statements that had become materially misleading or untrue to allow the market price of the Company's publicly-traded stock to reflect truthful and accurate information.

14. Hain Celestial is liable for the acts of the Individual Defendants and its employees under the doctrine of respondeat superior and common law principles of agency as all of the wrongful acts complained of herein were carried out within the scope of their employment with authorization.

15. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to Hain Celestial under respondeat superior and agency principles.

## **SUBSTANTIVE ALLEGATIONS**

### **Background**

16. The Company manufactures, markets, distributes, and sells organic and natural products in the United States, the United Kingdom, Canada, and Europe.

17. The Company markets its products through a combination of direct sales people, brokers and distributors.

18. On August 21, 2015, the Company filed its Form 10-K for the fiscal year ended June 30, 2015, which stated the following with regards to its reliance on independent distributors:

#### **We rely on independent distributors for a substantial portion of our sales.**

We rely upon sales made by or through non-affiliated distributors to customers. Distributors purchase directly for their own account for resale. One distributor, United Natural Foods, Inc., which redistributes products to natural foods supermarkets, independent natural retailers and other retailers, accounted for approximately 12%, 13% and 15% of our consolidated net sales for the fiscal years ended June 30, 2015, 2014, and 2013, respectively. The loss of, or business disruption at, one or more of these distributors may harm our business. If we are required to obtain additional or alternative distribution agreements or arrangements in the future, we cannot be certain that we will be able to do so on satisfactory terms or in a timely manner. Our inability to enter into satisfactory distribution agreements may inhibit our ability to implement our business plan or to establish markets necessary to expand the distribution of our products successfully.

### **Materially False and Misleading Statements**

19. The Class Period begins on November 11, 2015, when the Company filed a Form 10-Q for the quarter ending September 30, 2015 (the "1Q15 10-Q") with the SEC, which contained the Company's financial results for the quarter ending September 30, 2015. The 1Q15 10-Q was signed by Defendants Simon and Conte.

20. Attached to the 1Q15 10-Q were SOX certifications signed by Defendants Simon and Conte attesting to the accuracy of the financial statements, effectiveness of internal controls, and that all fraud was disclosed.

21. On February 9, 2016, the Company filed a Form 10-Q for the quarter ending December 31, 2015 (the “2Q15 10-Q”) with the SEC, which contained the Company's financial results for the quarter ending December 31, 2015. The 2Q15 10-Q was signed by Defendants Simon and Conte.

22. Attached to the 2Q15 10-Q were SOX certifications signed by Defendants Simon and Conte attesting to the accuracy of the financial statements, effectiveness of internal controls, and that all fraud was disclosed.

23. On May 10, 2016, the Company filed a Form 10-Q for the quarter ending March 31, 2016 (the “3Q15 10-Q”) with the SEC, which contained the Company's financial results for the quarter ending March 31, 2016. The 2Q15 10-Q was signed by Defendants Simon and Conte.

24. Attached to the 2Q15 10-Q were SOX certifications signed by Defendants Simon and Conte attesting to the accuracy of the financial statements, effectiveness of internal controls, and that all fraud was disclosed.

25. The above statements contained in ¶¶ 19 - 24 were false and/or misleading, as well as failed to disclose material adverse facts about the Company’s business, operations, and prospects. Specifically, these statements were false and/or misleading and/or failed to disclose that: (1) the Company lacked effective internal control over financial reporting; (2) the Company failed to properly account for revenue associated with concessions that were granted to certain distributors in the United States ; and that (3) as a result, Defendants’ statements about

Hain Celestial's business, operations, and prospects, were false and misleading and/or lacked a reasonable basis.

### **The Truth Emerges**

26. On August, 2016, the Company issued a press release during after-hours trading, which announced the delay in the release of its fourth quarter and fiscal year 2016 financial results due to its review of accounting issues stemming from concessions granted to distributors

The press release stated in relevant part:

#### **The Hain Celestial Group, Inc. Announces Delay in the Release of its Fourth Quarter and Fiscal Year 2016 Financial Results**

Lake Success, NY, August 15, 2016 - The Hain Celestial Group, Inc. (NASDAQ: HAIN), a leading organic and natural products company with operations in North America, Europe and India providing consumers with A Healthier Way of Life™, announced today that it will delay the release of its fourth quarter and fiscal year 2016 financial results. During the fourth quarter, the Company identified concessions that were granted to certain distributors in the United States. The Company is currently evaluating whether the revenue associated with those concessions was accounted for in the correct period and is also currently evaluating its internal control over financial reporting. The Audit Committee of the Company's Board of Directors is conducting an independent review of these matters and has retained independent counsel to assist in that review.

Previously, the Company has recognized revenue pertaining to the sale of its products to certain distributors at the time the products are shipped to such distributors. The Company is evaluating whether the revenue associated with the concessions granted to certain distributors should instead have been recognized at the time the products sell through its distributors to the end customers. The Company expects that any potential changes in the timing of the recognition of revenue with respect to these transactions should not impact the total amount of revenue ultimately recognized by the Company with respect to such distributors and does not reflect on the validity of the underlying transactions with respect to such distributors.

The Company will experience a delay in the timely filing of its Annual Report on Form 10-K for its fiscal year ended June 30, 2016 (the "Form 10-K") and expects to file a notification of late filing on Form 12b-25 with the Securities and Exchange Commission to obtain an automatic 15-day extension of the filing deadline for the Form 10-K. There can be no assurance that the Company will complete the preparation and filing of the Form 10-K within the extension period.

The Company will not be in a position to release financial results until the completion of the independent review of the Audit Committee and of the audit process relating to the 2016 fiscal year. The Company is working diligently on this matter and will, as soon as practicable, make a further announcement regarding the updated timing of the release of financial results and a conference call on its financial results. Separately, the Company does not expect to achieve its previously announced guidance for fiscal year 2016.

27. On this news, shares of Hain Celestial fell \$ 14.05 per share or over 26% from its previous closing price to close at \$39.35 per share on August 16, 2016, damaging investors.

28. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

#### **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

29. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Hain Celestial securities during the Class Period (the "Class"); and were damaged upon the revelation of the alleged corrective disclosure. Excluded from the Class are Defendants herein, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

30. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Hain Celestial securities were actively traded on the NASDAQ. While the exact number of Class members is unknown to Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Hain Celestial or its transfer agent and

may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

31. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

32. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Plaintiff has no interests antagonistic to or in conflict with those of the Class.

33. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- whether the federal securities laws were violated by Defendants' acts as alleged herein;
  - whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Hain Celestial;
  - whether the Individual Defendants caused Hain Celestial to issue false and misleading financial statements during the Class Period;
  - whether Defendants acted knowingly or recklessly in issuing false and misleading financial statements;
  - whether the prices of Hain Celestial securities during the Class Period were artificially inflated because of the Defendants' conduct complained of herein;
- and

- whether the members of the Class have sustained damages and, if so, what is the proper measure of damages.

34. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

35. Plaintiff will rely, in part, upon the presumption of reliance established by the fraud-on-the-market doctrine in that:

- Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- the omissions and misrepresentations were material;
- Hain Celestial securities are traded in an efficient market;
- the Company's shares were liquid and traded with moderate to heavy volume during the Class Period;
- the Company traded on the NASDAQ and was covered by multiple analysts;
- the misrepresentations and omissions alleged would tend to induce a reasonable investor to misjudge the value of the Company's securities; and
- Plaintiff and members of the Class purchased, acquired and/or sold Hain Celestial securities between the time the Defendants failed to disclose or misrepresented material facts and the time the true facts were disclosed, without knowledge of the omitted or misrepresented facts.

36. Based upon the foregoing, Plaintiff and the members of the Class are entitled to a presumption of reliance upon the integrity of the market.

37. Alternatively, Plaintiff and the members of the Class are entitled to the presumption of reliance established by the Supreme Court in *Affiliated Ute Citizens of the State of Utah v. United States*, 406 U.S. 128, 92 S. Ct. 2430 (1972), as Defendants omitted material information in their Class Period statements in violation of a duty to disclose such information, as detailed above.

### **COUNT I**

#### **Violations of Section 10(b) of The Exchange Act and Rule 10b-5 Against All Defendants**

38. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

39. This Count is asserted against Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder by the SEC.

40. During the Class Period, Defendants engaged in a plan, scheme, conspiracy and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, transactions, practices and courses of business which operated as a fraud and deceit upon Plaintiff and the other members of the Class; made various untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and employed devices, schemes and artifices to defraud in connection with the purchase and sale of securities. Such scheme was intended to, and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; (ii) artificially inflate and maintain the market price of Hain Celestial securities; and (iii) cause Plaintiff and other members of the

Class to purchase or otherwise acquire Hain Celestial securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

41. Pursuant to the above plan, scheme, conspiracy and course of conduct, each of the Defendants participated directly or indirectly in the preparation and/or issuance of the annual reports, SEC filings, press releases and other statements and documents described above, including statements made to securities analysts and the media that were designed to influence the market for Hain Celestial securities. Such reports, filings, releases and statements were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about Hain Celestial's disclosure controls and procedures.

42. By virtue of their positions at Hain Celestial, Defendants had actual knowledge of the materially false and misleading statements and material omissions alleged herein and intended thereby to deceive Plaintiff and the other members of the Class, or, in the alternative, Defendants acted with reckless disregard for the truth in that they failed or refused to ascertain and disclose such facts as would reveal the materially false and misleading nature of the statements made, although such facts were readily available to Defendants. Said acts and omissions of Defendants were committed willfully or with reckless disregard for the truth. In addition, each defendant knew or recklessly disregarded that material facts were being misrepresented or omitted as described above.

43. Information showing that Defendants acted knowingly or with reckless disregard for the truth is peculiarly within Defendants' knowledge and control. As the senior managers and/or directors of Hain Celestial, the Individual Defendants had knowledge of the details of Hain Celestial's internal affairs.

44. The Individual Defendants are liable both directly and indirectly for the wrongs complained of herein. Because of their positions of control and authority, the Individual Defendants were able to and did, directly or indirectly, control the content of the statements of Hain Celestial. As officers and/or directors of a publicly-held company, the Individual Defendants had a duty to disseminate timely, accurate, and truthful information with respect to Hain Celestial's businesses, operations, future financial condition and future prospects. As a result of the dissemination of the aforementioned false and misleading reports, releases and public statements, the market price of Hain Celestial securities was artificially inflated throughout the Class Period. In ignorance of the adverse facts concerning Hain Celestial's business and financial condition which were concealed by Defendants, Plaintiff and the other members of the Class purchased or otherwise acquired Hain Celestial securities at artificially inflated prices and relied upon the price of the securities, the integrity of the market for the securities and/or upon statements disseminated by Defendants, and were damaged thereby.

45. During the Class Period, Hain Celestial securities were traded on an active and efficient market. Plaintiff and the other members of the Class, relying on the materially false and misleading statements described herein, which the Defendants made, issued or caused to be disseminated, or relying upon the integrity of the market, purchased or otherwise acquired shares of Hain Celestial securities at prices artificially inflated by Defendants' wrongful conduct. Had Plaintiff and the other members of the Class known the truth, they would not have purchased or otherwise acquired said securities, or would not have purchased or otherwise acquired them at the inflated prices that were paid. At the time of the purchases and/or acquisitions by Plaintiff and the Class, the true value of Hain Celestial securities was substantially lower than the prices paid by Plaintiff and the other members of the Class. The

market price of Hain Celestial securities declined sharply upon public disclosure of the facts alleged herein to the injury of Plaintiff and Class members.

46. By reason of the conduct alleged herein, Defendants knowingly or recklessly, directly or indirectly, have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

47. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases, acquisitions and sales of the Company's securities during the Class Period, upon the disclosure that the Company had been disseminating misrepresented financial statements to the investing public.

## **COUNT II**

### **Violations of Section 20(a) of The Exchange Act Against The Individual Defendants**

48. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

49. During the Class Period, the Individual Defendants participated in the operation and management of Hain Celestial, and conducted and participated, directly and indirectly, in the conduct of Hain Celestial's business affairs. Because of their senior positions, they knew the adverse non-public information about Hain Celestial's operations, current financial position and future business prospects.

50. As officers and/or directors of a publicly owned company, the Individual Defendants had a duty to disseminate accurate and truthful information with respect to Hain Celestial's business practices, and to correct promptly any public statements issued by Hain Celestial which had become materially false or misleading.

51. Because of their positions of control and authority as senior officers, the Individual Defendants were able to, and did, control the contents of the various reports, press releases and public filings which Hain Celestial disseminated in the marketplace during the Class Period concerning the Company's disclosure controls and procedures. Throughout the Class Period, the Individual Defendants exercised their power and authority to cause Hain Celestial to engage in the wrongful acts complained of herein. The Individual Defendants therefore, were "controlling persons" of Hain Celestial within the meaning of Section 20(a) of the Exchange Act. In this capacity, they participated in the unlawful conduct alleged which artificially inflated the market price of Hain Celestial securities.

52. Each of the Individual Defendants, therefore, acted as a controlling person of Hain Celestial. By reason of their senior management positions and/or being directors of Hain Celestial, each of the Individual Defendants had the power to direct the actions of, and exercised the same to cause, Hain Celestial to engage in the unlawful acts and conduct complained of herein. Each of the Individual Defendants exercised control over the general operations of Hain Celestial and possessed the power to control the specific activities which comprise the primary violations about which Plaintiff and the other members of the Class complain.

53. By reason of the above conduct, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act for the violations committed by Hain Celestial.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

A. Determining that the instant action may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and certifying Plaintiff as the Class representative;

B. Requiring Defendants to pay damages sustained by Plaintiff and the Class by reason of the acts and transactions alleged herein;

C. Awarding Plaintiff and the other members of the Class prejudgment and post-judgment interest, as well as her reasonable attorneys' fees, expert fees and other costs; and

D. Awarding such other and further relief as this Court may deem just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby demands a trial by jury.

Dated: \_\_\_\_\_

Respectfully submitted,

**THE ROSEN LAW FIRM, P.A.**

By: \_\_\_\_\_

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