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County of San Diego

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Attorneys for Plaintiffs

No Fee GC § 6103

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF
CALIFORNIA and CITY OF SAN DIEGO, a
municipal corporation,

Plaintiffs,

v.

IP INVESTMENTS, LLC, a Delaware Limited
Liability Company;
RAMI AMIR, an individual; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2023-00049382-CU-MC-CTL

UNLIMITED JURISDICTION

COMPLAINT FOR INJUNCTION, CIVIL
PENALTIES, AND OTHER EQUITABLE
RELIEF

(1) VIOLATION OF THE CALIFORNIA
UNFAIR COMPETITION LAW
(CALIFORNIA BUSINESS AND
PROFESSIONS CODE SECTIONS
17200 THROUGH 17210);

(2) MAINTENANCE OF A PUBLIC
NUISANCE (CALIFORNIA CIVIL
CODE SECTIONS 3479 AND 3480);
AND

(3) VIOLATIONS OF THE SAN DIEGO
MUNICIPAL CODE

Plaintiffs the People of the State of California and City of San Diego, a municipal
corporation, appearing by and through their attorneys, Mara W. Elliott, City Attorney, and Paul F.
Prather, Supervising Deputy City Attorney, allege the following based upon information and
belief:

JURISDICTION AND VENUE

1. Plaintiffs the People of the State of California and City of San Diego, a municipal
corporation (Plaintiffs), by this action and pursuant to California Business and Professions Code

1 sections 17203, 17204, and 17206, California Code of Civil Procedure sections 526 and 731, and
2 San Diego Municipal Code sections 12.0202 and 121.0311, seek a preliminary injunction and
3 permanent injunction prohibiting Defendants from engaging in unfair competition and from using
4 or maintaining a property in violation of state and local ordinance provisions and as a public
5 nuisance, which is a threat to the health, safety and welfare of the public and its occupants.
6 Plaintiffs also seek to obtain civil penalties, costs, and other equitable relief for Defendants'
7 violations of the law.

8 2. The omission or commission of acts and violations of law by Defendants as alleged in
9 this Complaint occurred within the City of San Diego, State of California. Defendants, at all times
10 mentioned in this Complaint, either transacted business, resided, or both, within the City or
11 County of San Diego, in the State of California.

12 3. The property where the acts and practices described in this Complaint were performed
13 is in the City of San Diego.

14 **THE PARTIES**

15 4. Plaintiff the People of the State of California (People) brings this action by and
16 through Mara W. Elliott, City Attorney for the City of San Diego.

17 5. Plaintiff City of San Diego (City) is a municipal corporation and charter city,
18 organized and existing under the laws of the State of California.

19 6. The owner of record of 805 West Cedar Street and 1560 California Street, San Diego,
20 California 92101 (Property), where the state and local law violations exist and the nuisance is
21 maintained, is Defendant IP INVESTMENTS, LLC.

22 7. Defendant IP INVESTMENTS, LLC is a Delaware limited liability company doing
23 business in the City of San Diego, State of California.

24 8. Defendant RAMI AMIR (AMIR) is an individual and resident of the County of
25 San Diego, and at all times relevant to this action, was and is the member and manager of
26 Defendant IP INVESTMENTS, LLC, the owner of the Property.

27 9. Defendants DOES 1 through 50, inclusive, are sued as fictitious names, under the
28 provisions of California Code of Civil Procedure section 474, their true names and capacities are

1 unknown to Plaintiffs. Plaintiffs are informed and believe that each Defendant, DOES 1 through
2 50, is either responsible, in whole or in part, for the violations and conduct alleged, or has, or
3 claims to have, an interest in the Property, the exact nature of which is presently unknown to
4 Plaintiffs. When the true names and capacities are ascertained, Plaintiffs will seek leave of court
5 to amend this Complaint and to insert in lieu of such fictitious names the true names and
6 capacities of the fictitiously named Defendants.

7 10. At all relevant times mentioned in the Complaint, all Defendants and DOES 1 through
8 50, and each of them, were and are agents, principals, servants, lessors, lessees, employees,
9 partners, associates or joint venturers of each other and at all times were acting within the course,
10 purpose and scope of said relationship and with the authorization or consent of each of their co-
11 defendants.

12 11. At all times relevant in this action, all Defendants and DOES 1 through 50, comprised
13 an "organization of persons" within the meaning of California Business and Professions Code
14 section 17201, in that they associated together for the common purpose of engaging in a course of
15 deceptive, unlawful, unfair and fraudulent business acts and practices as alleged here.

16 **PROPERTY**

17 12. The legal address of the Property where the building violations are being maintained
18 and the unfair competition violations and public nuisance are occurring is 1560 California Street
19 and 805 West Cedar Street in San Diego, California 92101, also identified as Assessor's Parcel
20 Numbers 533-321-08-00 and 533-321-09-00.

21 13. The legal description of the Property is:

22 PARCEL 1: (PORTION OF APN: 533-321-08-00)

23 THE NORTH 12.00 FEET OF RIGHT OF WAY LOT 10 AND
24 ALL OF RIGHT OF WAY LOT 11, OF MIDDLETOWN, IN THE
25 CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF
26 CALIFORNIA, ACCORDING TO THE PARTITION MAP
27 THEREOF MADE BY J. E. JACKSON, ON FILE IN THE
28 OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY.

PARCEL 2: (PORTION OF APN: 533-321-08-00)

THAT PORTION OF THE WEST HALF OF CALIFORNIA
STREET AS SHOWN ON MAP OF MIDDLETOWN, IN THE

1 CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF
2 CALIFORNIA, ACCORDING TO THE PARTITION MAP
3 THEREOF MADE BY J. J. JACKSON, FILED IN THE OFFICE
4 OF THE COUNTY CLERK OF SAN DIEGO COUNTY,
ADJOINING RIGHT OF WAY LOT 11 AND THE NORTH 12.00
FEET OF RIGHT OF WAY LOT 10, AS SHOWN ON SAID
MAP, ON THE EAST.

5 PARCEL 3: (APN: 533-321-09-00)

6 RIGHT OF WAY LOT 12 OF MIDDLETOWN, IN THE CITY OF
7 SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF
8 CALIFORNIA, ACCORDING TO MAP THEREOF NO. J.E.
JACKSON ON FILE IN THE OFFICE OF COUNTY RECORDER
OF SAN DIEGO COUNTY.

9 14. Defendant IP INVESTMENTS, LLC acquired the Property on September 13, 2017,
10 per a Grant Deed recorded with the San Diego County Recorder's Office as Document Number
11 2017-0420057.

12 15. 1560 California Street was originally developed in 1904 as a single-story commercial
13 building used for a print shop, storage, and a garage. 805 West Cedar Street was originally
14 developed in 1961 as a two-story building with office rooms and steam rooms for a men's sauna.
15 The Property is located within the Center City Planned District-Employment Residential Mixed
16 Use zone in downtown San Diego.

17 **FACTUAL ALLEGATIONS**

18 16. Since about August 23, 2019, the Property has been vacant and in a state of disrepair.
19 It has been occupied by transients and squatters, contained unsanitary and substandard living
20 conditions, and has had an extensive history of criminal and nuisance activity. Several fires have
21 also been reported at the Property.

22 17. From January 1, 2019, to February 5, 2023, there have been about 44 calls for service
23 to the San Diego Police Department (SDPD), requiring officers to expend over 81 hours of out-
24 of-service time at the Property. Most of the reported incidents have been requests to investigate
25 disturbing the peace and trespassing incidents.

26 18. On or about August 13, 2019, the City of San Diego's Building and Land Use
27 Enforcement Division (BLUE), formerly the Code Enforcement Division, received a complaint of
28 people cutting through the fence and entering the vacant buildings.

1 19. On or about August 23, 2019, BLUE Zoning Investigator Jose Bautista (Investigator
2 Bautista) and Fire Marshal Perry Esquer inspected the Property and found the buildings to be
3 vacant and unsecured, with graffiti on the exterior. The interior was filled with large piles of trash
4 and debris, and evidence of habitation was also observed.

5 20. On or about October 2, 2019, a Notice of Abatement Vacant and Unsecured Structure
6 (2019 Notice) was issued to Defendant IP INVESTMENTS, LLC outlining the violations
7 observed at the August 23, 2019 inspection. The 2019 Notice required the property owners to
8 remove all trash, board and secure the structures, and to monitor the Property weekly to remove
9 transients.

10 21. On or about October 14, 2019, BLUE received a complaint that the chain link fence at
11 the Property had been compromised and the locks were missing.

12 22. On or about October 17, 2019, at 1:18 p.m., SDPD received a call for service to
13 investigate a disturbance of the peace incident at the Property.

14 23. On or about October 21, 2019, Investigator Bautista conducted a compliance
15 inspection at the Property and observed the violations referenced in the 2019 Notice still
16 remained.

17 24. On or about January 29, 2020, BLUE investigators informed Defendants that the
18 Property was again full of excessive storage, trash, debris, and graffiti. BLUE also informed
19 Defendants to stop using the Property as a parking lot until they acquired the proper permits.

20 25. On or about March 29, 2020, BLUE investigators informed Defendants that the
21 Property was full of trash and debris and asked that they stop operating an illegal parking lot.

22 26. On or about June 10, 2020, at 8:26 p.m., SDPD received a call for service alleging gun
23 shots had been fired at the Property. The caller told SDPD dispatch: "805 W. Cedar Shots Fired,
24 Go."

25 27. On or about August 8, 2020, BLUE investigators informed Defendants that transients
26 were continuing to break into the Property and requested that the premises be re-boarded and re-
27 secured immediately.

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1 28. On or about June 21, 2020, at 9:28 p.m., SDPD received a call for service to
2 investigate a burglary in progress. SDPD was informed that a male had broken double pane
3 windows at the Property, entered the building and then left on a skateboard.

4 29. On or about September 23, 2020, BLUE investigators conducted a compliance
5 inspection and observed that several windows and doors were not properly boarded and secured.
6 Three vagrants were also observed occupying the inside of one of the structures.

7 30. On or about August 30, 2020, at 8:32 p.m., SDPD received a call for service reporting
8 that there were six to seven subjects trespassing at the Property and possibly selling narcotics.

9 31. On or about September 1, 2020, at 7:54 a.m., SDPD apprehended an individual at the
10 Property with an active arrest warrant.

11 32. On or about October 6, 2020, BLUE investigators issued another Notice of Abatement
12 Vacant and Unsecured Structure (2020 Notice) to Defendants. The 2020 Notice specified the
13 violations existing at the Property, compliance measures, and compliance deadlines. The building
14 and zoning violations observed at the Property include but are not limited to:

15 a. Failing to adhere to Notice of Abatement Vacant and Unsecured Structure issued
16 October 2, 2019;

17 b. Property poses a serious threat to the public's health and safety and is hereby
18 declared to be a public nuisance in accordance with Municipal Code section 54.0301 and
19 California Health and Safety Code section 17920.3;

20 c. Property is vacant and unsecured;

21 d. Observed evidence of transient presence and activity;

22 e. Graffiti; and

23 f. Trash, litter and debris throughout the Property.

24 33. On or about November 13, 2020, BLUE investigators inspected the Property and
25 determined that the boarding and securing of the structure was not done to City standards as
26 requested.

27 34. On or about November 19, 2020, at 12:06 p.m., SDPD received a call for service to
28 investigate a burglary in progress at the Property.

1 35. On or about November 21, 2020, at 3:29 p.m., SDPD received a call for service to
2 investigate trespassing at the Property.

3 36. On or about November 28, 2020, at 12:36 p.m., SDPD received a call for service to
4 investigate trespassers at the Property. That same date, at 5:22 p.m., SDPD received another call
5 for service regarding two subjects again entering the premises.

6 37. On or about November 29, 2020, at 3:11 p.m., SDPD received a call for service
7 regarding a female trespassing and entering the Property.

8 38. On or about December 5, 2020, at 4:43 p.m., SDPD received a call for service
9 regarding a female engaging in narcotics at the Property. Later that same day, at 4:55 p.m., SDPD
10 received a call for service regarding a male and a female trespassing at the premises.

11 39. On or about December 6, 2020, at 3:22 p.m., SDPD received a call for service
12 regarding two males and a female trespassing at the Property.

13 40. On or about December 8, 2020, BLUE investigators met with Defendants at the
14 Property and again informed them that the structures were not properly boarded and secured and
15 showed Defendants the improper boarding, lack of proper fencing, graffiti, and debris on the
16 Property.

17 41. On or about December 12, 2020, at 7:32 a.m., SDPD received a call for service
18 regarding a male with a large black backpack trespassing at the Property.

19 42. On or about December 19, 2020, at 12:38 p.m., SDPD received a call for service
20 regarding transients using narcotics and trespassing at the Property. Later that same day, at 5:08
21 p.m., SDPD received a call for service to again investigate a trespassing offense.

22 43. On or about December 24, 2020, at 2:15 p.m., SDPD received a call for service
23 regarding an unknown number of transients in the Property who refused to leave. One transient,
24 when asked to leave, confronted the reporting party.

25 44. On or about January 2, 2021, at 5:49 a.m., SDPD received a call for service regarding
26 transients with large dogs at the back of the Property.

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1 45. On or about January 7, 2021, BLUE investigators inspected the Property and observed
2 that the structures were not secured as previously ordered. Investigators again ordered Defendants
3 to secure the Property.

4 46. On or about August 25, 2021, BLUE investigators received additional complaints of
5 transients breaking into the Property.

6 47. On or about September 1, 2021, the City of San Diego's Fire Marshal ordered
7 Defendants to post a 24/7 fire watch at the premises as the buildings remained unsecured, and
8 transients continued to break in.

9 48. On or about September 3, 2021, BLUE investigators met with Defendants at the
10 Property to order the re-securing/boarding of the structures.

11 49. On or about November 5, 2021, BLUE investigators received notice that the Property
12 had been broken into. Defendants were again ordered to re-secure the buildings.

13 50. On or about November 11, 2021, BLUE Building Inspector Val Sanchez (Inspector
14 Sanchez) went to the Property to confirm that the front door opening had been re-secured. Upon
15 arrival, he was met by the security guard for the day care center directly across from the Property.
16 The security guard informed him that he had just been in an altercation with a transient
17 attempting to break into the Property and notified police.

18 51. That same day, Inspector Sanchez met with representatives from the Hampton Inn
19 hotel located immediately adjacent to the Property. Inspector Sanchez learned that transients
20 break into the Hampton Inn parking garage, exit through the fire escape, and then access the alley
21 between the Property and Hampton Inn. In the alley, transients are hidden from view and can
22 break into the Property's poorly secured windows.

23 52. On or about February 1, 2022, at 12:31 p.m., SDPD received a call for service
24 regarding two suspects attempting to break into the Property.

25 53. On or about February 3, 2022, BLUE investigators were notified by the day care
26 security guard that transients had again broken into the structures at the Property.

27 54. On or about February 17, 2022, at 12:44 p.m., SDPD received a call for service
28 regarding a fire occurring at the Property.

1 55. On or about February 18, 2022, BLUE investigators were notified that transients had
2 gained access to the interior of the Property and started a fire.

3 56. On or about June 24, 2022, at 8:08 p.m., SDPD received a call for service requesting
4 medical assistance at the Property for a transient that had received head trauma.

5 57. On or about July 10, 2022, at 12:57 p.m., SDPD received a call for service to
6 investigate a dead body located at the Property.

7 58. On or about July 25, 2022, BLUE investigators were notified that a homeless
8 encampment was observed in the parking lot of the Property.

9 59. On or about November 9, 2022, a Notice and Order to Vacate and Repair or Demolish
10 Substandard Buildings; and Abate Public Nuisance (Notice and Order) was issued by BLUE
11 investigators to Defendants specifying existing violations, compliance measures, and compliance
12 time frames. A copy of the Notice and Order was also posted at the Property. The violations
13 specified in the Notice and Order included:

14 a. Faulty Weather Protection - Deteriorated or ineffective waterproofing of the
15 exterior walls and roofs, including broken and missing windows or doors in violation of
16 California Health and Safety Code sections 17920.3(g)(2) and 17920.3(g)(3); and California
17 Building Code section 1402.2.

18 b. General Dilapidation - General dilapidation or improper maintenance. Failure to
19 maintain the structure and premises free of dilapidated conditions and in a state of good repair,
20 including graffiti, dilapidated perimeter fencing and broken and missing windows and doors in
21 violation of California Health and Safety Code section 17920.3(a)(14).

22 c. Unsanitary Conditions - Accumulation of trash and debris inside the buildings and
23 throughout the exterior of the buildings, including drug paraphernalia and human excrement in
24 violation of California Health and Safety Code section 17920.3(a); Municipal Code section
25 121.0404(e); and California Building Code section 116.1.

26 d. Accumulation of Debris, Trash, and Junk - Accumulation of debris, trash, and
27 junk, throughout the exterior and interior of the buildings, including drug paraphernalia which
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1 constitute fire, health, or safety hazards in violation of California Health and Safety Code section
2 17920.3(j); and Municipal Code section 54.0208(a).

3 e. Any Nuisance - Property allows transients to conduct illegal activities, including
4 starting fires and creating a homeless encampment in the parking lot. These activities lead to
5 unsanitary conditions existing at the Property creating a nuisance to the pedestrians in the Public
6 Right-of-Way, the guests of the adjacent hotel, restaurant, fire station and the day care center for
7 small children. These activities have caused Police and Fire to respond to the Property numerous
8 times to address nuisance and criminal activity and to extinguish fires all in violation of
9 California Health and Safety Code sections 17920.3(j) and 17920.3(c); and Municipal Code
10 sections 54.0301(b), 54.0301(c), 121.0404(f), 121.0302(b)(4), and 121.0404(g).

11 f. Unsafe Conditions - The Property is in such a dilapidated state, including decaying
12 and deteriorating structural floor, ceiling and roof framing elements, deficient vertical and
13 horizontal structural supports, including lack of adequate structural supports for the second floor
14 ceiling/floor assembly (805 West Cedar building) and the lack of adequate structural elements to
15 withstand seismic activity, deficient and structurally compromised interior stairs (805 West Cedar
16 building), and the unlawful occupation of transients starting fires in buildings that lack a fire
17 suppression and fire alarm system and in close proximity to a hotel and a fire station as to make
18 the Property unsafe in violation of California Health and Safety Code sections 17920.3(k),
19 17920.3(b)(2), 17920.3(b)(4) and 17920.3(b)(6); Municipal Code sections 121.0401 and
20 121.0404(f); California Building Code section 116.1; and California Fire Code sections 301.1,
21 311.1 and 311.2.

22 60. Not only is the Property a blight to the community, it is a drain on City resources.
23 Since August 23, 2019, BLUE investigators have traveled to the Property approximately 21
24 times, expending 33 hours of staff time.

25 61. Since August 23, 2019, SDPD has been called to the Property approximately 45 times.
26 The calls law enforcement personnel have responded to at the Property have included requests to
27 investigate a death and the discharge of a firearm, as well as disturbing the peace, burglary in
28 progress and trespassing incidents. These calls have resulted in SDPD personnel being out of

1 service and expending over 85 hours dealing with complaints at the Property, when they could be
2 protecting the public elsewhere.

3 62. Since August 23, 2019, the San Diego Fire-Rescue Department (SDFD) has been
4 called to the Property six times, expending in excess of five hours of time. The calls responded to
5 by the SDFD have included reports of fires, illegal burns, traumatic injuries, and
6 cardiac/respiratory arrest and requests for medical aid.

7 63. The substandard and public nuisance conditions existing at the Property pose a
8 significant fire hazard to the occupants and the community.

9 64. The unsanitary conditions and illegal activities at the Property endanger the health and
10 welfare of the occupants and the community. BLUE investigators have inspected the Property no
11 fewer than 20 times over the last four years, and Defendants have not remedied the nuisance.
12 Further, the volume of police calls to the Property over the last four years clearly indicates a
13 pattern of conduct injurious to the community at large.

14 65. To this day, the City continues to receive complaints regarding the negative effects
15 conditions at the Property have on the surrounding community. Reports have been made
16 regarding transients entering and occupying the Property and trash and debris accumulating on
17 the exterior.

18 66. Defendants are blatantly and willfully in violation of state and local law and will
19 continue to maintain the unlawful use of the Property in the future unless the Court enjoins and
20 prohibits such conduct. Absent injunctive relief, the People of the State of California and the City
21 will be irreparably harmed, and the ongoing violations will continue to harm the public health,
22 safety, and welfare of the citizens of San Diego.

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FIRST CAUSE OF ACTION

**VIOLATION OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE SECTION 17200 (UNFAIR
COMPETITION) ALLEGED BY PLAINTIFF THE PEOPLE
OF THE STATE OF CALIFORNIA AGAINST ALL
DEFENDANTS**

67. Plaintiff the People of the State of California incorporates by reference all allegations in paragraphs 1 through 66 of this Complaint as though fully set forth here in their entirety.

68. California Business and Professions Code section 17200 defines unfair competition to include “any unlawful, unfair or fraudulent business act or practice.”

69. As the Unfair Competition Law (UCL) contains no express intent, knowledge, or negligence requirement, the UCL “imposes strict liability.” *Rothschild v. Tyco Int’l, Inc.*, 83 Cal. App. 4th 488, 494 (2000). Liability may be established without showing that Defendants intended to injure anyone. *See id.* (citing to *State Farm Fire & Casualty Co. v. Superior Court*, 45 Cal. App. 4th 1093, 1102 (1996), disapproved of on another point in *Cel-Tech Commc’ns, Inc. v. Los Angeles Cellular Tel. Co.*, 20 Cal. 4th 163, 184-87 (1999)).

70. California Business and Professions Code section 17204 authorizes a city attorney of a city having a population in excess of 750,000 to bring a civil enforcement action on behalf of the people of the State of California.

71. Plaintiff, the People by and through Mara W. Elliott, City Attorney for the City of San Diego, a city with a population in excess of 750,000, pursuant to the authority granted by California Business and Professions Code section 17204, brings this suit both on behalf of, and for the benefit of, the People, to redress unfair and deceptive acts or practices and unfair methods of competition to ensure that individuals and entities doing business in the State, and more particularly in the City of San Diego, comply with all governing laws.

72. A civil enforcement action can be brought against “[a]ny person who engages, has engaged, or proposes to engage in unfair competition.” Cal. Bus. & Prof. Code § 17203.

73. Beginning on an exact date unknown to Plaintiff, but within four years prior to the filing of this Complaint, and continuing to the present, Defendants, and each of them, have

1 engaged in unfair competition in violation of California Business and Professions Code section
2 17200, including but not limited to one or more of the following unlawful, unfair, or fraudulent
3 business acts or practices:

4 a. Defendants' acts of maintaining a public nuisance at the Property in violation of
5 local and state laws, including but not limited to, the violations alleged in the Second and Third
6 Causes of Action.

7 b. Defendants' acts of maintaining the Property in violation of the City of
8 San Diego's Municipal Code, including but not limited to, the violations alleged in the Third
9 Cause of Action.

10 74. Defendants wrongly obtained monies and benefits by their unfair, fraudulent and
11 unlawful business acts and practices to the detriment of the City and the community.

12 75. Each and every separate act constitutes an unlawful, unfair and/or fraudulent business
13 practice. Each day that Defendants engaged in each separate unlawful, unfair and/or fraudulent
14 act, omission or practice is a separate and distinct violation of California Business and
15 Professions Code sections 17200 through 17210.

16 76. Unless Defendants cease such unlawful action, the community will continue to suffer
17 from the egregious conduct of Defendants.

18 II

19 SECOND CAUSE OF ACTION

20 MAINTENANCE OF A PUBLIC NUISANCE IN VIOLATION 21 OF CALIFORNIA CIVIL CODE SECTIONS 3479 AND 3480 22 ALLEGED BY PLAINTIFF THE PEOPLE OF THE STATE 23 OF CALIFORNIA AGAINST ALL DEFENDANTS

23 77. Plaintiff the People of the State of California incorporates by reference all allegations
24 in paragraphs 1 through 76 of this Complaint as though fully set forth here in their entirety.

25 78. California Civil Code sections 3479 and 3480 provide that:

26 Anything which is injurious to health, including, but not limited to,
27 the illegal sale of controlled substances, or is indecent or offensive
28 to the senses, or an obstruction to the free use of property, so as to

1 interfere with the comfortable enjoyment of life or property . . . is
2 a nuisance. . . . A public nuisance is one which affects . . . an entire
3 community or neighborhood

4 79. California Civil Code section 3491 specifies the remedies against a public nuisance,
5 including indictment or information, a civil action or abatement. California Civil Code section
6 3494 states that “[a] public nuisance may be abated by any public body or officer authorized
7 thereto by law.”

8 80. California Code of Civil Procedure section 731 authorizes a city attorney to bring an
9 action to enjoin or abate a public nuisance. It provides, in relevant part: “A civil action may be
10 brought in the name of the people of the State of California to abate a public nuisance . . . by the
11 city attorney of any town or city in which such nuisance exists.”

12 81. On October 2, 2019, Defendants were made aware of the nuisance when they were
13 provided with the 2019 Notice. The 2019 Notice advised Defendants of the unlawful and
14 dangerous conditions found to exist at the Property and declared that the conditions violate the
15 California Health and Safety Code and the Municipal Code. Defendants wholly failed to remedy
16 those conditions.

17 82. One year later, on October 6, 2020, Defendants were again notified of the nuisance
18 when they were provided with the 2020 Notice. Again, Defendants failed to remedy those
19 conditions.

20 83. On November 9, 2022, more than three years after Defendants were first given notice
21 of the nuisance, Defendants were provided with the Notice and Order listing violations dating
22 back to 2019. Today, those violations and the nuisance at the Property continue.

23 84. City staff have been called to the Property approximately 50 times since August 23,
24 2019. The calls law enforcement personnel have responded to at the Property have included
25 requests to investigate burglary, trespassing, and disturbing the peace complaints. These calls
26 have resulted in SDPD personnel being out of service and expending over 80 hours dealing with
27 complaints at the Property. SDFD has been called to the Property six times expending over five
28 hours of time. The calls responded to by the SDFD have included reports of fires, illegal burns,
 traumatic injuries, and cardiac/respiratory arrest and requests for medical aid.

1 85. Defendants have had ample time to comply with the City's Notice and Order and have
2 failed to do so within a reasonable time.

3 86. Beginning on an exact date unknown to Plaintiff, but since at least August 23, 2019,
4 and continuing to the present, Defendants have used or maintained the Property in a manner that
5 violates the California Health and Safety Code and the Municipal Code. Due to the long-term
6 cumulative effect of the substandard conditions at the Property, these violations are so extensive
7 and of such a nature that the health and safety of the occupants and the public have been
8 substantially endangered.

9 87. Defendants' maintenance of the Property in the condition described above constitutes
10 a continuing public nuisance as defined by California Civil Code sections 3479 and 3480.
11 Defendants' Property adversely affects the entire community and neighborhood. The Property as
12 it currently exists is injurious to the health, safety, and welfare of those who live and work in the
13 community and interferes with the comfortable use and enjoyment of life and property. Especially
14 in conjunction with the criminal activity occurring at the Property, such conditions are
15 objectionable to the neighborhood and community as a whole, and undoubtedly constitute a
16 public nuisance.

17 88. Plaintiff has no plain, speedy, or adequate remedy at law. Therefore, unless
18 Defendants are restrained by this Court, Plaintiff is informed and believes that they will continue
19 to maintain this nuisance and thereby cause irreparable injury and harm to the public's health,
20 safety, and welfare.

21 III

22 THIRD CAUSE OF ACTION

23 VIOLATIONS OF THE SAN DIEGO MUNICIPAL CODE 24 ALLEGED BY PLAINTIFF CITY OF SAN DIEGO AGAINST 25 ALL DEFENDANTS

26 89. Plaintiff City of San Diego incorporates by reference all allegations in paragraphs 1
27 through 88 of this Complaint as though fully set forth here in their entirety.

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1 90. Municipal Code section 121.0302(a) states: “It is unlawful for any person to maintain
2 or use any premises in violation of any of the provisions of the Land Development Code¹, without
3 a required permit, contrary to permit conditions . . . or without a required variance.”

4 91. Municipal Code section 11.0210 defines a public nuisance as:

5 any condition caused, maintained or permitted to exist which
6 constitutes a threat to the public’s health, safety and welfare or
7 which significantly obstructs, injures or interferes with the
8 reasonable or free use of property in a neighborhood, community or
to any considerable number of persons. A public nuisance also has
the same meaning as set forth in California Civil Code Section
3479.

9 92. Municipal Code section 121.0302(b)(4) states: “It is unlawful . . . to maintain or allow
10 the existence of any condition that creates a public nuisance.” Beginning on an exact date
11 unknown to Plaintiff, but since at least August 23, 2019, and continuing to the present,
12 Defendants have maintained a public nuisance at the Property, in violation of Municipal Code
13 section 121.0302(b)(4).

14 93. Municipal Code section 142.0380(a) provides that property owners “shall maintain
15 fences . . . free from dilapidated or dangerous conditions.” Beginning on an exact date unknown
16 to Plaintiff, but since at least August 23, 2019, and continuing to the present, Defendants have
17 maintained dilapidated perimeter fencing and a compromised chain link fence at the Property, in
18 violation of Municipal Code section 142.0380(a).

19 94. Municipal Code section 145.0103 adopts the 2022 California Building Code and
20 incorporates its requirements into the Municipal Code. Beginning on an exact date unknown to
21 Plaintiff, but since at least August 23, 2019, and continuing to the present, Defendants have
22 maintained unsafe, dilapidated, deteriorating, and decaying building conditions in violation of the
23 2022 California Building Code at the Property, in violation of Municipal Code sections 145.0103
24 and 121.0302(a).

25 95. Municipal Code section 54.0208(a) makes it unlawful “to fail to maintain real property
26 and appurtenances . . . free from [w]aste.” Beginning on an exact date unknown to Plaintiff, but

27 _____
28 ¹ The Land Development Code is comprised of Chapters 11 through 15 of the San Diego
Municipal Code. SDMC § 111.0101(a).

1 since at least August 23, 2019, and continuing to the present, Defendants have maintained the
2 premises with waste, including drug paraphernalia, trash, and debris, in violation of Municipal
3 Code section 54.0208(a).

4 96. Municipal Code section 54.0306(d) provides that “[i]t is unlawful . . . to fail to lock,
5 barricade or secure all doors, windows and other openings to any vacant structure” in accordance
6 with the standards listed in Municipal Code section 54.0308. Beginning on an exact date
7 unknown to Plaintiff, but since at least August 23, 2019, and continuing to the present,
8 Defendants have maintained vacant structures at the Property that have not been boarded and
9 secured in accordance with Municipal Code section 54.0308, in violation of Municipal Code
10 section 54.0306(d).

11 97. Municipal Code section 54.0405(b) states that “[i]t is unlawful for any responsible
12 person to maintain graffiti that has been placed upon, or to allow graffiti to remain upon, any
13 surface within that person’s control, possession or ownership when the graffiti is visible from the
14 street or other public property.” Beginning on an exact date unknown to Plaintiff, but since at
15 least August 23, 2019, and continuing to the present, Defendants have allowed graffiti visible
16 from the public right-of-way to remain on the exterior of the Property, in violation of Municipal
17 Code section 54.0405(b).

18 98. Municipal Code section 511.0101 adopts the 2022 California Fire Code and
19 incorporates its requirements into the Municipal Code. Beginning on an exact date unknown to
20 Plaintiff, but since at least August 23, 2019, and continuing to the present, Defendants have
21 maintained fire hazards including, but not limited to, an excessive accumulation of combustible
22 items, inadequate fire suppression and fire alarm systems, inadequate emergency egress exits,
23 lack of fire-rated construction of exterior walls, roof, interior walls, floors, and ceiling assemblies
24 in violation of the 2022 California Fire Code at the Property, in violation of Municipal Code
25 section 511.0101.

26 99. Plaintiff City of San Diego has no adequate remedy at law, and unless Defendants are
27 enjoined and restrained by an order of this Court, Defendants will continue to violate the
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1 Municipal Code, thereby causing irreparable injury and harm to the public's health, safety, and
2 general welfare.

3 **PRAYER**

4 **WHEREFORE**, Plaintiffs pray for judgment against Defendants as follows:

5 **AS TO THE FIRST CAUSE OF ACTION**

6 **Violations of California Business and Professions Code sections 17200 through 17210**

7 1. That pursuant to California Business and Professions Code section 17203, Defendants,
8 their officers, directors, employees, agents, representatives, partners, successors and assigns, and
9 all persons, corporations, subsequent purchasers, or other entities, acting by, through, under, in
10 concert, on behalf of, or in participation with or for them be permanently enjoined from engaging
11 in unfair competition as defined in California Business and Professions Code section 17200
12 anywhere in the County of San Diego, including acts and practices alleged in this Complaint,
13 including but not limited to:

14 a. Maintaining, causing, or permitting the existence of a public nuisance in violation
15 of California Civil Code sections 3479 and 3480 and Municipal Code section 121.0302(b)(4);

16 b. Maintaining a vacant structure in violation of Municipal Code sections 54.0306
17 (Abandoned Properties Regulations) and 54.0308 (Standards for Boarding a Vacant Structure);

18 c. Maintaining unsanitary conditions, including drug paraphernalia which constitute
19 fire, health, or safety hazards, or an accumulation of trash and debris inside the buildings and
20 throughout the exterior and interior of the Property in violation of Municipal Code section
21 54.0208(a);

22 d. Maintaining unsafe, dilapidated, deteriorating, and decaying building conditions in
23 violation of the 2022 California Building Code as adopted by Municipal Code section 145.0103
24 and in violation of Municipal Code section 121.0302(a);

25 e. Maintaining fire hazards including, but not limited to, an excessive accumulation
26 of combustible items, inadequate fire suppression and fire alarm systems, inadequate emergency
27 egress exits, lack of fire rated construction of exterior walls, roof, interior walls, floors, and
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ceiling assemblies in violation of the 2022 California Fire Code as adopted by Municipal Code section 511.0101;

f. Maintaining dangerous or dilapidated fencing conditions in violation of Municipal Code section 142.0380(a); and

g. Violating any local and state building and land use laws and regulations.

2. That pursuant to California Business and Professions Code section 17206, Defendants, and each of them, be assessed a maximum civil penalty in the amount of \$2,500 for each UCL violation as proven at trial.

AS TO THE SECOND CAUSE OF ACTION

Public Nuisance

3. That the Property, together with the fixtures and moveable property, be declared a continuing public nuisance as defined by California Civil Code sections 3479 and 3480.

4. That pursuant to California Code of Civil Procedure sections 526 and 731, the Court grant a preliminary injunction and permanent injunction, enjoining and restraining Defendants, their agents, heirs, successors, officers, employees, and anyone acting on their behalf from maintaining the Property as a public nuisance as defined per California Civil Code sections 3479 and 3480.

AS TO THE THIRD CAUSE OF ACTION

Violations of the San Diego Municipal Code

5. That the Court declare the Property to be in violation of:

San Diego Municipal Code sections

121.0302(a)	54.0405(b)	511.0101
121.0302(b)(4)	145.0103	142.0380(a)
54.0208(a)	54.0306(d)	

6. That, pursuant to Municipal Code sections 12.0202(a) and 121.0311, the Court grant a preliminary injunction and permanent injunction, enjoining and restraining Defendants, their agents, officers, employees, and anyone acting on their behalf, from keeping, allowing, or maintaining violations of the Municipal Code at the Property.

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1 7. That Defendants allow personnel from the City of San Diego access to the Property to
2 inspect and monitor for compliance upon 24-hour verbal or written notice. Inspections shall occur
3 between the hours of 8:00 a.m. and 5:00 p.m.

4 8. That, pursuant to Municipal Code section 12.0202(b), Defendants are assessed a civil
5 penalty of \$2,500 per day for each Municipal Code violation maintained at the Property.

6 **AS TO ALL CAUSES OF ACTION**

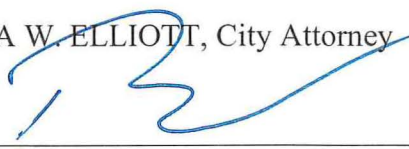
7 9. That Plaintiffs recover from Defendants all costs incurred by Plaintiffs, including the
8 costs of investigation and any fees authorized by law.

9 10. That Plaintiffs be granted such other and further relief as the nature of the case may
10 require and the Court deems appropriate.

11 Dated: November 2, 2023

12 MARA W. ELLIOTT, City Attorney

13
14 By



Paul F. Prather
Supervising Deputy City Attorney

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16 Attorneys for Plaintiffs
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