



For Immediate Release: January 30, 2024

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## **SDPD, City Attorney Shut Down Illegal Massage Parlor in Kearny Mesa**

City Attorney Mara W. Elliott has filed a civil law enforcement action to stop prostitution and possible human trafficking occurring at the Ocean Spa massage parlor in Kearny Mesa. After receiving numerous complaints from community members and businesses, City Attorney Mara W. Elliott and San Diego Police Chief David Nisleit announced today the end of a months-long joint investigation into Ocean Spa.

Neighboring businesses complained the site was the source of foot traffic at odd hours, people having intercourse in parked cars and sexual noises loud enough to disrupt a nearby church service. After receiving numerous community complaints regarding illicit sexual activities at Ocean Spa including criminal, nuisance, and lewd activities, SDPD's Vice Unit began an extensive and thorough investigation into these complaints, working directly with the Nuisance Abatement Unit of the City Attorney's Office in preparation for prosecution.

**"The owners of Ocean Spa have been masquerading as a legitimate business for far too long,"** City Attorney Elliott said. **"Ocean Spa is a sex shop – not a massage parlor- and it has no place in our community or anywhere else. We look forward to holding these perpetrators accountable and to restoring peace in this complex."**

SDPD spent more than 125 hours investigating prostitution-related crimes at Ocean Spa last year alone. On at least 4 occasions, spa workers offered to sell sex to undercover police officers, which led to the arrest of at least four individuals for prostitution. They also documented more than 1,270 online advertisements for sex acts at the spa in the last 5 years.

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“The San Diego Police Department takes neighborhood complaints of this nature very seriously,” Police Chief Nisleit said. “Our Vice Unit’s thorough investigation into the operation at businesses just like Ocean Spa bring peace and civility back to San Diego neighborhoods. We are grateful for the collaboration with the City Attorney to eliminate this type of criminal conduct in our communities.”

Elliott has asked the Court to prohibit their continued operation of an illegal red-light business and pay more than \$100,000 in civil penalties and reimburse the City for attorney fees and other monies spent responding to police calls and other enforcement-related activities.

The City Attorney’s complaint also alleges that the City code inspector found evidence that indicates the Ocean Spa’s employees lived on premises. **“We’re not convinced that these women voluntarily sold sex,”** said City Attorney Elliot. **“We’re very concerned about the well-being of these employees.”**

The City Attorney thanked Senior Chief Deputy City Attorney Gabriela “Gaby” Brannan, who heads the Nuisance Abatement Unit, under the leadership of Assistant City Attorney, Paige Folkman, Supervising Deputy City Attorney Paul Prather, and Deputy City Attorney Isabel V. Ignacio. The Chief of Police also thanked Lieutenant Jason Scott as well as the entire VICE unit for their dedication to duty and tireless efforts in this case.

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No Fee GC § 6103

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF  
CALIFORNIA,

Plaintiff,

v.

SEAN SHENG JUN XU, an individual;  
JUNLING LIU, an individual;  
KEARNY MANAGEMENT SERVICES, LLC,  
a California limited liability company;  
ASIM GUHA ROY, also known as ASIM  
GUHARROY, an individual;  
RONALD L. TOPP, individually and as Trustee  
of the Trust dated January 26, 1984; and  
DOES 1 through 50, inclusive,

Defendants.

Case No.

COMPLAINT FOR INJUNCTION, CIVIL  
PENALTIES AND OTHER EQUITABLE  
RELIEF

(1) VIOLATION OF THE RED LIGHT  
ABATEMENT LAW (CAL. PENAL  
CODE §§ 11225-11235);

(2) MAINTENANCE OF A PUBLIC  
NUISANCE (CAL. CIV. CODE §§  
3479-3480); AND

(3) VIOLATIONS OF THE CALIFORNIA  
UNFAIR COMPETITION LAW  
(CAL. BUS. & PROF. CODE §§  
17200-17210)

Plaintiff the People of the State of California, appearing by and through their attorneys,  
Mara W. Elliott, City Attorney, Paul F. Prather, Supervising Deputy City Attorney and Isabel  
Victoria M. Ignacio, Deputy City Attorney, alleges the following based upon information and  
belief:

**JURISDICTION AND VENUE**

1. Plaintiff the People of the State of California, by this action and pursuant to California  
Penal Code sections 11225 through 11227, California Code of Civil Procedure sections 526 and  
731 and California Business and Professions Code sections 17203, 17204, and 17206, seeks a  
temporary restraining order, preliminary injunction and permanent injunction prohibiting

1 Defendants from using or maintaining a property in violation of state and local law provisions, as  
2 a public nuisance which is a threat to the health, safety, and welfare of the public, and to enjoin  
3 Defendants from engaging in unfair competition. Plaintiff also seeks civil penalties, attorney fees,  
4 costs, and other equitable relief for Defendants' violations of the law.

5 2. The omission or commission of acts and violations of law by Defendants as alleged in  
6 this Complaint occurred within the City of San Diego, State of California. Defendants, at relevant  
7 times mentioned in this Complaint, have transacted business within the City of San Diego or are  
8 residents of San Diego County, within the State of California, or both.

9 3. Venue properly lies within the County of San Diego because the violations of law  
10 alleged occurred within the County of San Diego.

#### 11 THE PARTIES

12 4. Plaintiff the People of the State of California brings this action by and through Mara  
13 W. Elliott, City Attorney for the City of San Diego.

14 5. Defendant Kearny Management Services, LLC (KMS), is a California limited liability  
15 company and, at all times relevant to this action, was and is the owner of record of the property  
16 located at 4550 Kearny Villa Road, Unit 107, San Diego, CA 92123 (UNIT 107), where state and  
17 local law violations are being maintained.

18 6. Defendant Asim Guha Roy, also known as Asim Guharoy (GUHAROY), is an  
19 individual and resident of the County of San Diego and, at all times relevant to this action, was  
20 and is the chief executive officer of KMS, the owner of record of UNIT 107.

21 7. Defendant Ronald L. Topp (TOPP), individually and in his capacity as Trustee under  
22 Trust dated January 26, 1984, is an individual and resident of the County of San Diego. At all  
23 times relevant to this action, Defendant TOPP, as Trustee under Trust dated January 26, 1984,  
24 was and is the owner of the property located at 4550 Kearny Villa Road, Unit 108, San Diego,  
25 CA 92123 (UNIT 108), where state and local law violations are being maintained.

26 8. Defendant Sean Sheng Jun Xu (XU) is an individual and resident of the County of  
27 San Diego and, at all times relevant to this action, was and is an operator and owner of the

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1 business known as Health Station/Ocean Spa operating out of UNIT 107 and UNIT 108  
2 (collectively, PROPERTY).

3 9. Defendant Junling Liu (LIU) is an individual and resident of the County of San Diego  
4 and, at all times relevant to this action, was and is an operator and owner of the business known  
5 as Health Station/Ocean Spa operating out of the PROPERTY.

6 10. Defendants DOES 1 through 50, inclusive, are sued as fictitious names, under the  
7 provisions of California Code of Civil Procedure section 474, their true names and capacities are  
8 unknown to Plaintiff. Plaintiff is informed and believes that each Defendant, DOES 1 through 50,  
9 is either responsible, in whole or in part, for the violations and conduct alleged, or has, or claims  
10 to have, an interest in the PROPERTY, the exact nature of which is presently unknown to  
11 Plaintiff. When the true names and capacities are ascertained, Plaintiff will seek leave of court to  
12 amend this Complaint and insert in lieu of such fictitious names the true names and capacities of  
13 the fictitiously named Defendants.

14 11. At all relevant times mentioned in the Complaint, all Defendants and DOES 1 through  
15 50, and each of them, were and are agents, principals, servants, lessors, lessees, employees,  
16 partners, associates, or joint venturers of each other and at all times were acting within the course,  
17 purpose and scope of said relationship and with the authorization or consent of each of their co-  
18 defendants.

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

23 **PROPERTY**

24 13. The legal address of the property where the violations of state and local law are  
25 occurring and being maintained is 4550 Kearny Villa Road, Units 107-108, San Diego, CA  
26 92123, also known as Assessor's Parcel Numbers 369-140-15-49 and 369-140-15-50,  
27 respectively.

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1 14. According to the San Diego County Recorder's Grant Deed recorded as Document  
2 Number 2019-0493792 on October 30, 2019, UNIT 107 has a legal description of:

3 A Condominium comprised of:

4 Parcel 1:

5 An undivided 1/84th interest in and to that portion of Parcel "B" of  
6 the City of San Diego Industrial Park Unit No. 1, in the City of  
7 San Diego, County of San Diego, State of California, according to  
8 Map thereof No. 3978, filed in the Office of the County Recorder of  
9 San Diego County, October 1, 1958, more particularly described on  
Exhibit "B" attached to the Declaration of Covenants, Conditions  
and Restrictions, Easements, Limitations, Reservations, Liens and  
Charges for Landmark Centre recorded February 13, 1981 as File  
No. 81-046955 of Official Records.

10 Excepting therefrom the following:

11 (a) All 84 units as shown upon the Landmark Centre Condominium  
12 Plan recorded February 13, 1981 as File No.81-046954 of Official  
Records of San Diego County, California.

13 Parcel 2:

14 Unit No. 107 of 4550 Kearny Villa Road as shown upon the  
15 Condominium Plan above referred to.

16 15. On October 25, 2019, Defendant KMS acquired UNIT 107 via the Grant Deed  
17 recorded on October 30, 2019, by the San Diego County Recorder's Office as Document Number  
18 2019-0493792.

19 16. According to the San Diego County Recorder's Grant Deed recorded on May 31,  
20 2002, as Document Number 2002-0463418, UNIT 108 has a legal description of:

21 A Condominium comprised of:

22 Parcel 1:

23 An undivided 1/84th interest in and to that portion of Parcel "B" of  
24 the City of San Diego Industrial Park Unit No. 1, in the City of  
25 San Diego, County of San Diego, State of California, according to  
26 Map thereof No. 3978, filed in the Office of the County Recorder of  
27 San Diego County, October 1, 1958, more particularly described on  
Exhibit "B" attached to the Declaration of Covenants, Conditions ,  
Restrictions, Easements, Limitations, Reservations, Liens and  
Charges for Landmark Centre recorded February 13, 1981 as File  
No. 81-046955 of Official Records.

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EXCEPTING THEREFROM the following:

(a) All 84 units as shown upon the LANDMARK CENTRE Condominium Plan recorded February 13, 1981 as File No. 81-046954 of Official Records of San Diego County, California.

Parcel 2:

Unit No. 108 of 4550 Kearney [sic] Villa Road as shown upon the Condominium Plan above referred to.

17. On May 22, 2002, Defendant TOPP, as Trustee under Trust dated January 26, 1984, acquired UNIT 108 via the Grant Deed recorded on May 31, 2002, by the San Diego County Recorder's Office as Document Number 2002-0463418.

18. The PROPERTY is located in an Industrial-Light 2-1 (IL 2-1) zone in the Kearny Mesa neighborhood in the City of San Diego. An IL 2-1 zone allows a mix of light industrial and office uses with limited commercial uses.

19. UNITS 107 and 108 are located inside one of two buildings known as the Landmark Centre near Balboa Boulevard and Convoy Street. Each building consists of 42 individually owned office condominiums. The buildings were developed in 1981 as a commercial/condominium use.

## STATEMENT OF FACTS

20. Beginning on a date unknown to Plaintiff, but since at least June 13, 2018, UNIT 107 has had an extensive history of criminal and nuisance activity, including lewd activity and prostitution arrests. Since at least August 17, 2021, similar instances of criminal and nuisance activity have repeatedly occurred at UNIT 108.

21. The San Diego Police Department (SDPD) regularly receives community complaints regarding prostitution activity occurring at UNITS 107 and 108. This includes reports of foot traffic at all hours of the day, sexual sounds coming from the premises which are audible to nearby businesses, and female employees wearing sexually explicit clothing. In 2023 alone, SDPD expended over 125 hours investigating prostitution-related crimes at the PROPERTY.

22. On or about October 23, 2017, Defendant LIU as a sole proprietor applied for and obtained a Business Tax Certificate (BTC) from the San Diego City Treasurer's Office to operate

1 a business by the name of "Optimal" from UNIT 107. The application described the primary  
2 business activity of Optimal as "massage therapy" and the business start date as October 23,  
3 2017. Around this time, Optimal began operating out of UNIT 107 under the name "V Spa."

4 23. On or about June 13, 2018, an SDPD vice detective went to V Spa (UNIT 107) to  
5 conduct an undercover detail to address complaints of prostitution activity. The male officer was  
6 met by a female employee wearing a skin-tight dress who stated that a 30-minute massage cost  
7 \$40. The officer paid the employee. While the officer was on the massage table, the female  
8 employee touched the officer's genitals and asked him if he wanted to engage in a sexual act for  
9 an additional payment of \$140. SDPD officers cited the female worker for a prostitution-related  
10 offense.

11 24. On or about July 2, 2019, an SDPD vice detective went to V Spa (UNIT 107) to  
12 conduct an undercover detail to address complaints of prostitution activity. The male officer was  
13 met by a female employee who stated that a 30-minute massage cost \$40. The officer paid and  
14 was escorted to a room. A different female employee, wearing a dress and high-heeled shoes,  
15 soon joined the officer. During the massage, the second female employee sat on the table and  
16 exposed her genitals. She asked the officer if he wanted to engage in a sexual act for an additional  
17 \$300. SDPD officers cited the second female for a prostitution-related offense.

18 25. On or about August 19, 2019, a Deputy City Attorney with the Nuisance Abatement  
19 Unit of the Office of the San Diego City Attorney (OCA) mailed certified written correspondence  
20 to the owner of UNIT 107 (at the time, Richard Teh-Fu Tan LLC) and Defendant LIU notifying  
21 them of the prostitution activity occurring at V Spa (UNIT 107) as indicated above and requested  
22 immediate abatement of the nuisance. The letter also notified the parties of possible liability  
23 under the Red Light Abatement Law and nuisance statutes if the criminal activity was not abated.  
24 The letter sent to Defendant LIU at UNIT 107 was signed for by Qian Xu, a relative of Defendant  
25 XU.

26 26. On or about August 20, 2019, an OCA investigator met with Defendant LIU and  
27 Defendant XU, LIU's husband at the time. Defendants LIU and XU admitted that they had  
28 . . . . .



1 received the abatement letter from the OCA dated August 19, 2019, and stated that V Spa (UNIT  
2 107) would be closed down immediately.

3 27. On or about August 26, 2019, the San Diego City Treasurer's Office was requested to  
4 cancel the BTC as Optimal, operating as V Spa (UNIT 107), would be out of business on October  
5 31, 2019. The BTC was cancelled as requested the same day.

6 28. On or about October 9, 2019, Qian Xu as a sole proprietor applied for and obtained a  
7 BTC from the San Diego City Treasurer's Office to operate a business by the name of "Ocean  
8 Spa" from UNIT 108. The application described the primary business activity of Ocean Spa as  
9 "Skin Care-Aromatherapy" and the business start date as October 9, 2019.

10 29. On or about October 25, 2019, UNIT 107 was sold to the current property owner,  
11 Defendant KMS.

12 30. On or about August 17, 2021, Defendant XU as a sole proprietor applied for and  
13 obtained a BTC from the San Diego City Treasurer's Office to operate a business by the name of  
14 "Health Station" from UNIT 108. The application described the primary business activity of  
15 Health Station as "Offices of All Oth Misc Health Practitioners" and the business start date as  
16 September 1, 2021.

17 31. On or about November 8, 2021, the BTC for Ocean Spa was cancelled. Despite the  
18 fact that no BTC had been obtained in connection with the operation of a massage establishment  
19 located at UNIT 108 and the fact that no BTC had been obtained in connection with the operation  
20 of any business at UNIT 107, Health Station/Ocean Spa continued to operate from UNIT 107 and  
21 UNIT 108.

22 32. In or around June 2022, the World Mission Society Church of God (CHURCH)  
23 opened a bible study center in an office condominium (Units 105 and 106) next door to the  
24 PROPERTY. The CHURCH regularly held study sessions at this location for university and high  
25 school students, some under the age of 18. After moving into their location next door to the  
26 PROPERTY, CHURCH study sessions were regularly interrupted by the sounds of loud moaning  
27 of a sexual nature emanating from the PROPERTY. During at least one holiday, members of the  
28 CHURCH viewed female Health Station/Ocean Spa employees wearing skimpy and sexually

1 suggestive clothing. On numerous occasions Health Station/Ocean Spa employees approached  
2 male students of the CHURCH and told them to "come over and visit them."

3 33. On or about January 2, 2023, at 10:16 p.m., SDPD received a call for service to  
4 investigate noise violations at UNIT 107. The reporting party indicated that there were loud,  
5 chronic sex sounds coming from the unit. Prostitution activity was also reported to be occurring  
6 on the premises. SDPD officers arrived at the PROPERTY at 10:54 p.m. and observed two  
7 vehicles with multiple male passengers arrive and then immediately leave when they saw the  
8 officers.

9 34. On or about March 9, 2023, at 12 noon, members of the CHURCH observed a couple  
10 having sex in a truck right in front of the CHURCH.

11 35. Several hours later, at 4:14 p.m., SDPD received a call for service reporting "sexual  
12 moaning" coming from the PROPERTY and possible prostitution activity.

13 36. On or about March 16, 2023, at 5:30 p.m., members of the CHURCH again observed  
14 the same couple from March 9, 2023, having sex in a truck parked in front of their office. The  
15 rocking vehicle was parked two spaces away from a CHURCH student who was sitting in her car.

16 37. Several hours later, at 10:39 p.m., SDPD received another call for service reporting  
17 "sexual moaning" noises coming from UNIT 107 as well as possible prostitution activity.

18 38. San Diego Municipal Code section 33.3527 and California Civil Code section 52.6  
19 require a massage establishment to post a Human Trafficking Notice informing the community  
20 and victims of human trafficking about available resources to combat and report unlawful  
21 activity. The notice is required to be posted in a conspicuous place near the public entrance of the  
22 business or a similar location.

23 39. On or about May 3, 2023, an SDPD vice detective went to Health Station/Ocean Spa  
24 (UNITS 107-108) at the PROPERTY to conduct an undercover detail to address complaints of  
25 prostitution activity. The officer was met by a female employee, later identified as Defendant  
26 LIU, who stated that a 30-minute massage cost \$50. The officer paid LIU and was escorted to a  
27 room. A different female employee soon joined the officer. While the officer was on the massage  
28 table, the employee asked him, "Do you even want a massage?" and stated that for an additional

1 \$160 she would engage in sexual activity. SDPD officers cited the second female employee for a  
2 prostitution-related offense. A Human Trafficking Notice was not observed to be posted, and the  
3 employees appeared to be living on the premises in violation of local zoning laws.

4 40. On or about September 14, 2023, SDPD Lieutenant Jason Scott mailed a letter to  
5 Defendant TOPP, the owner of UNIT 108, and Defendant KMS, the owner of UNIT 107,  
6 informing them about the prostitution activity occurring on the premises. The letter outlined the  
7 prostitution-related complaints investigated by police at the PROPERTY as well as the online  
8 advertisements for sex acts occurring on the premises. Defendants were also asked to abate the  
9 criminal activity, cure the violations, and were informed of legal consequences.

10 41. On or about September 19, 2023, the letter to Defendant TOPP was returned as  
11 undeliverable. No response to the letter was received from Defendant KMS.

12 42. On or about October 3, 2023, inspectors with the City's Building and Land Use  
13 Enforcement Division (BLUE) went to the PROPERTY (UNITS 107-108) to investigate possible  
14 zoning violations.

15 43. BLUE inspectors inspected the PROPERTY and observed illegal building  
16 modifications throughout the premises. The two units had been combined into one unit without  
17 the required tenant improvement permits. Doors and walls had been added to create six separate  
18 massage rooms as well as areas for habitation. Beds, instead of traditional massage tables, were  
19 observed in the rooms along with items, such as towels and mouthwash, not associated with  
20 traditional massage businesses. The kitchen contained a refrigerator with large quantities of fresh  
21 food, which is also not typical in an office setting. Multiple suitcases and storage areas containing  
22 clothing, shoes and other personal items were also observed. Each room also contained a monitor  
23 showing security camera views of the entryway and other common areas.

24 44. The building and zoning violations observed by BLUE inspectors at the PROPERTY  
25 on October 3, 2023, included but were not limited to:

26 a. Habitation not permitted in an Industrial Zone. SDMC § 131.0620; Cal. Health &  
27 Safety Code § 17920.3(n).

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1           b. Unpermitted building modifications including the addition of doors and walls to  
2 create additional rooms and living areas and combining the two units into one unit without the  
3 required building permits. SDMC § 129.0202.

4           c. Unpermitted plumbing modifications including the installation of two water  
5 heaters without the required permits. SDMC § 129.0402.

6           d. Unpermitted electrical modifications throughout the premises. SDMC § 129.0302.

7           e. Failure to identify the business activity on the premises as "Massage  
8 Establishment, Specialized Practice" on the City of San Diego Business Tax Certificate. SDMC §  
9 141.0613.

10          f. Maintenance of a public nuisance. Prostitution activity occurring on the premises.  
11 SDMC § 121.0302(b)(4).

12          45. On or about October 31, 2023, the CHURCH informed their landlord that they would  
13 be terminating their lease due to the lewd and prostitution-related activity occurring at the  
14 PROPERTY.

15          46. On or about November 3, 2023, SDPD Lt. Scott again mailed a letter to Defendants  
16 TOPP and GUHARROY informing them that the prostitution activity continued on the premises  
17 and demanding abatement of the nuisance.

18          47. On or about December 14, 2023, an SDPD vice detective went to Health  
19 Station/Ocean Spa (UNITS 107 and 108) at the PROPERTY to conduct an undercover detail to  
20 address complaints of prostitution activity. The officer was met by a female employee wearing  
21 black pants and a black sweater who asked how long a massage he wanted and directed the  
22 officer's attention to a price list posted on the wall. The officer paid the employee \$60 for a 30-  
23 minute massage and was shown, along with a different, scantily clad female employee, to a room.  
24 After touching the officer's genitals, the second employee indicated that she would engage in  
25 sexual intercourse for an additional \$150. SDPD officers arrested the female for a prostitution-  
26 related offense.

27          48. On or about December 14, 2023, a BLUE inspector conducted a compliance  
28 inspection at the PROPERTY and confirmed that all unpermitted modifications observed on

1 October 3, 2023, were still present. Beds, instead of traditional massage tables, were observed, as  
2 was a fully stocked kitchen. Written notes were posted on the wall asking employees to keep their  
3 living areas clean.

4 49. Municipal Code section 31.0121 requires business owners to obtain a BTC prior to  
5 engaging in any business or occupation. From at least August 17, 2021, and continuing to the  
6 present, Defendants have failed to obtain the required BTC for the operation of a massage  
7 business from the PROPERTY.

8 50. It is unlawful for any person to operate or allow the operation of a massage  
9 establishment or a sole practitioner massage establishment without first obtaining a police permit  
10 as required per Municipal Code section 33.3503. From at least August 17, 2021, and continuing  
11 to the present, Defendants have failed to obtain the required police permit for the operation of a  
12 massage establishment at the PROPERTY.

13 51. From as early as August 5, 2019, through January 9, 2024, SDPD officers found over  
14 1,270 open-source online advertisements for sex acts occurring at UNIT 107, UNIT 108, or both  
15 units. The ads posted on this user-generated website review and rate establishments where  
16 prostitution activity occurs.

17 52. To this day, SDPD continues to receive complaints from community members  
18 regarding the negative effects the criminal and nuisance activity occurring at the PROPERTY has  
19 on surrounding businesses.

20 53. Plaintiff has no adequate remedy at law other than this action. Defendants are blatantly  
21 and willfully in violation of state laws and will continue to maintain the unlawful use of the  
22 PROPERTY in the future unless the Court enjoins and prohibits such conduct. Absent injunctive  
23 relief, the People of the State of California will be irreparably harmed, and the ongoing violations  
24 and nuisance will continue to harm the public, safety, and welfare of the citizens of San Diego.

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I

FIRST CAUSE OF ACTION

**VIOLATIONS OF THE RED LIGHT ABATEMENT LAW  
(CALIFORNIA PENAL CODE SECTIONS 11225-11235)  
ALLEGED BY PLAINTIFF THE PEOPLE OF THE STATE  
OF CALIFORNIA AGAINST ALL DEFENDANTS**

54. Plaintiff the People of the State of California realleges and incorporates by reference all allegations contained in Paragraphs 1 through 53 of this Complaint as though set forth here in their entirety.

55. California Penal Code section 11225, subdivision (a)(1), provides, in pertinent part:

Every building or place used for the purpose of . . . lewdness . . . or prostitution . . . or upon which acts of . . . lewdness . . . or prostitution[] are held or occur[] is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

56. California Penal Code section 11226 authorizes a city attorney to maintain an action in equity to abate and prevent a nuisance, as defined in California Penal Code section 11225, and to perpetually enjoin "the person conducting or maintaining it, and the owner, lessee, or agent of the building or place, in or upon which the nuisance exists, from directly or indirectly maintaining or permitting it."

57. Beginning on an exact date unknown to Plaintiff, but since at least August 17, 2021, and continuing to the present, the PROPERTY has been used and maintained by Defendants XU and LIU for acts of lewdness and prostitution activity in violation of the Red Light Abatement Law.

58. From June 13, 2018, to the present, law enforcement officers have arrested several employees of the massage business operating from UNIT 107, UNIT 108, or both units for prostitution activity.

59. From August 5, 2019, through January 9, 2024, SDPD officers found over 1,270 open-source online advertisements for sex acts that occurred at UNIT 107, UNIT 108, or both units. These ads posted on a user-generated website review and rate establishments where prostitution occurs.



60. The PROPERTY has developed a reputation in the community as a location where prostitution takes place.

61. The activities set forth above have been a continuous and ongoing prostitution nuisance, under California Penal Code sections 11225 through 11235, upon the PROPERTY for more than three years. Despite Defendants' knowledge of the nuisance activity at the PROPERTY, they have refused to cure the violations, thus the public nuisance continues.

62. Defendants, and each of them, have directly or indirectly conducted, maintained, or permitted the nuisance described above in violation of California Penal Code sections 11225 through 11235.

63. Therefore, the nuisance existing at the PROPERTY must be abated and prevented in accordance with California Penal Code sections 11225 through 11235.

64. Plaintiff has no adequate remedy at law, and unless Defendants are enjoined and restrained by order of this Court, Defendants will continue to maintain acts of lewdness and prostitution activity at the PROPERTY and the nuisance will continue.

## II

## SECOND CAUSE OF ACTION

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

65. Plaintiff realleges and incorporates by reference all allegations contained in Paragraphs 1 through 64 of this Complaint as though set forth here in their entirety.

66. California Civil Code sections 3479 and 3480 provide that:

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property . . . is a nuisance. A public nuisance is one which affects . . . an entire community or neighborhood. . . .

67, California Civil Code section 3491 specifies the remedies against a public nuisance, including indictment or information, a civil action or abatement. California Civil Code section

1 3494 states that “[a] public nuisance may be abated by any public body or officer authorized  
2 thereto by law.”

3 68. California Code of Civil Procedure section 731 authorizes a city attorney to bring an  
4 action to enjoin or abate a public nuisance. It provides, in relevant part, “A civil action may be  
5 brought in the name of people of the State of California to abate a public nuisance . . . by the city  
6 attorney of any town or city in which the nuisance exists.”

7 69. Beginning on an exact date unknown to Plaintiff, but since at least August 17, 2021,  
8 and continuing to the present, Defendants have maintained a continuing public nuisance at the  
9 PROPERTY by allowing lewd acts and prostitution activity to occur.

10 70. Law enforcement frequently receives community complaints regarding lewd acts and  
11 prostitution activity occurring at the premises. This includes reports of scantily dressed female  
12 employees, sexual noises emanating from the PROPERTY, and people engaging in sexual acts in  
13 public near adjacent businesses.

14 71. Law enforcement officers have also arrested several employees at the PROPERTY for  
15 prostitution-related crimes.

16 72. Defendants’ maintenance of the PROPERTY in the condition described above  
17 constitutes a continuing public nuisance as defined by California Civil Code sections 3479 and  
18 3480. The PROPERTY adversely affects the entire community and neighborhood. The  
19 PROPERTY is injurious to the health, safety, and welfare of those who work in and visit the  
20 community and interferes with the comfortable use and enjoyment of life and property. Plaintiff  
21 has no plain, speedy, or adequate remedy at law. Therefore, unless Defendants are restrained by  
22 this Court, Plaintiff is informed and believes that Defendants will continue to maintain this  
23 nuisance and thereby cause irreparable injury and harm to the public’s health, safety, and welfare.

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1 III

2 THIRD CAUSE OF ACTION

3 VIOLATION OF CALIFORNIA BUSINESS AND  
4 PROFESSIONS CODE SECTION 17200 (UNFAIR  
5 COMPETITION) ALLEGED BY PLAINTIFF THE PEOPLE  
6 OF THE STATE OF CALIFORNIA AGAINST ALL  
7 DEFENDANTS

8 73. Plaintiff the People of the State of California incorporates by reference all allegations  
9 in paragraphs 1 through 72 of this Complaint as though fully set forth here in their entirety.

10 74. California Business and Professions Code section 17200 defines unfair competition to  
11 include "any unlawful, unfair or fraudulent business act or practice."

12 75. As the Unfair Competition Law (UCL) contains no express intent, knowledge, or  
13 negligence requirement, the UCL "imposes strict liability." *Rothschild v. Tyco Int'l, Inc.*, 83 Cal.  
14 App. 4th 488, 494 (2000). Liability may be established without showing that a defendant intended  
15 to injure anyone. *See id.* (citing to *State Farm Fire & Casualty Co. v. Super. Ct.*, 45 Cal.  
16 App. 4th 1093, 1102 (1996), disapproved of on another point in *Cel-Tech Commc'n, Inc. v. Los*  
17 *Angeles Cellular Tel. Co.*, 20 Cal. 4th 163, 184-87 (1999)).

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

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

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

1 79. Beginning on an exact date unknown to Plaintiff, but within four years prior to the  
2 filing of this Complaint, and continuing to the present, Defendants have engaged in unfair  
3 competition in violation of California Business and Professions Code section 17200, including  
4 but not limited to one or more of the following unlawful, unfair, or fraudulent business acts or  
5 practices:

6 a. Defendants' acts of leasing the PROPERTY and operating or allowing the  
7 operation of a business which creates a public nuisance in violation of:

8 i. California Penal Code sections 11225 through 11235, including but not  
9 limited to the violations alleged in the First Cause of Action.

10 ii. California Civil Code sections 3479 and 3480, including but not limited to  
11 the violations alleged in the Second Cause of Action.

12 b. Defendants' acts of leasing the PROPERTY and maintaining the premises in  
13 violation of the City of San Diego's Land Development Code,<sup>1</sup> including but not limited to:

14 i. Allowing and maintaining habitation in an Industrial zone in violation of  
15 Municipal Code section 131.0620.

16 ii. Maintaining unpermitted construction including the addition of doors and  
17 walls to create additional rooms and living areas and combining UNITS 107 and 108 into one unit  
18 without obtaining the required building permits in violation of Municipal Code section 129.0202.

19 iii. Maintaining unpermitted plumbing modifications including the installation  
20 of two water heaters without the required permits in violation of Municipal Code section  
21 129.0402.

22 iv. Maintaining unpermitted electrical modifications throughout the premises in  
23 violation of Municipal Code section 129.0302.

24 v. Failing to identify the business activity on the premises as "Massage  
25 Establishment, Specialized Practice" on the City of San Diego Business Tax Certificate as  
26 required by Municipal Code section 141.0613.

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28 <sup>1</sup> The Land Development Code is comprised of Chapters 11 through 15 of the Municipal  
Code. SDMC § 111.0101(a).

1                   vi. Maintaining a public nuisance including lewd acts and prostitution activity  
2 on the premises in violation of Municipal Code section 121.0302(b)(4).

3                   vii. Maintaining violations of the Land Development Code at the PROPERTY in  
4 violation of Municipal Code section 121.0302(a).

5                   c. Defendants' act of failing to obtain the required Business Tax Certificates for the  
6 operation of a business from the PROPERTY in violation of Municipal Code section 31.0121.

7                   d. Defendants' acts of operating or allowing the operation of a massage business at  
8 the PROPERTY without obtaining a police permit in violation of Municipal Code section  
9 33.3503.

10                  e. Defendants' acts of leasing the PROPERTY and allowing the premises to be used  
11 for habitation in violation of California Health and Safety Code section 17920.3(n).

12                  80. By the misconduct alleged herein, Defendants unfairly detract from the quality of life  
13 of those neighbors to the PROPERTY. Defendants unfairly contribute to the crime and disorderly  
14 conduct within the City of San Diego and are unjustly enriched to the extent that Defendants fail  
15 to pay the costs of complying with their obligations to maintain the PROPERTY free of  
16 prostitution nuisance activity. These unfair business practices, as alleged herein, place Defendants  
17 at an unfair advantage with respect to their competitors who do follow the law.

18                  81. Defendants wrongly obtained monies and benefits by their unfair, fraudulent, and  
19 unlawful business acts and practices to the detriment of the People of the State of California and  
20 the community.

21                  82. Plaintiff has no adequate remedy at law, and unless Defendants are enjoined and  
22 restrained by order of this Court, Defendants will continue to commit unlawful business practices  
23 or acts, causing irreparable injury and harm to the public's welfare.

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**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for judgment as follows:

**AS TO THE FIRST CAUSE OF ACTION**

**Red Light Abatement**

- 1. That Defendants and the PROPERTY, including the buildings, be declared in violation of California Penal Code section 11225.
- 2. That pursuant to California Penal Code sections 11225 through 11235, the Red Light Abatement Law, the Court grant a preliminary injunction and permanent injunction enjoining and restraining Defendants and their agents, servants, employees, partners, associates, officers, representatives and all persons acting under or in concert with or for Defendants, from engaging in any of the following acts:
  - a. Maintaining, conducting, allowing, permitting, directly or indirectly, any violations of the Red Light Abatement Law, including, but not limited to, the occurrence, continuance, or reoccurrence of acts of prostitution or human trafficking upon the premises and buildings located at the PROPERTY.
- 3. That pursuant to California Penal Code section 11230(b), the Court assess a civil penalty of \$25,000 against each Defendant.
- 4. That pursuant to California Penal Code section 11230(a), the Court order the closure of the buildings at the PROPERTY for a period of one year, or alternatively, in lieu of closure, Defendants shall be ordered to pay damages in an amount not to exceed the fair market rental value of the PROPERTY for one year.
- 5. Any other relief as permitted by the Red Light Abatement Law.
- 6. That pursuant to California Civil Code section 3496(b), Plaintiff recovers the costs of this suit including, but not limited to, costs of enforcement, investigative costs, and reasonable attorney fees.

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**AS TO THE SECOND CAUSE OF ACTION**

**Maintenance of a Public Nuisance**

7. 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.

8. 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 or any other property in the City and County of San Diego as a public nuisance as defined per California Civil Code sections 3479 and 3480.

**AS TO THE THIRD CAUSE OF ACTION**

**Unfair Competition**

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

a. Operating or allowing the operation of a business which creates a public nuisance in violation of California Penal Code sections 11225 through 11235 and California Civil Code sections 3479 and 3480.

b. Maintaining a property in violation of the City of San Diego's Land Development Code, including but not limited to:

i. Allowing and maintaining habitation in an Industrial zone in violation of Municipal Code section 131.0620.

ii. Maintaining unpermitted construction in violation of Municipal Code section 129.0202.

. . . . .

1                   iii. Maintaining unpermitted plumbing modifications in violation of Municipal  
2 Code section 129.0402.

3                   iv. Maintaining unpermitted electrical modifications in violation of Municipal  
4 Code section 129.0302.

5                   v. Failing to identify the business activity on the premises as "Massage  
6 Establishment, Specialized Practice" on a City of San Diego Business Tax Certificate as required  
7 by Municipal Code section 141.0613.

8                   vi. Maintaining a public nuisance, including lewd acts and prostitution activity,  
9 in violation of Municipal Code section 121.0302(b)(4).

10                  vii. Maintaining violations of the Land Development Code in violation of  
11 Municipal Code section 121.0302(a).

12                  c. Failing to obtain the required Business Tax Certificates for the operation of a  
13 business in violation of Municipal Code section 31.0121.

14                  d. Operating or allowing the operation of a massage business without obtaining a  
15 required police permit in violation of Municipal Code section 33.3503.

16                  e. Allowing a premises not intended to be used as habitable space to be used for  
17 habitation in violation of California Health and Safety Code section 17920.3(n).

18                  f. Conducting any type of activity in the City and County of San Diego which creates  
19 a public nuisance in violation of local and state laws, including but not limited to California Civil  
20 Code sections 3479 and 3480.

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

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**AS TO ALL CAUSES OF ACTION**

11. That Plaintiff be granted such other and further relief as the nature of the case may require and the Court deems appropriate.

Dated: January 25, 2024

MARA W. ELLIOTT, City Attorney

By



Isabel Victoria M. Ignacio  
Deputy City Attorney

Attorneys for Plaintiff