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CLERK No. 06103
SUPERIOR COURT
SAN DIEGO COUNTY, CA

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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10 PEOPLE OF THE STATE OF CALIFORNIA, Case No.: 37-2013-00072620-CU-MC-CTL
11 Plaintiff,

12 v.

13 BRE/LQ PROPERTIES L.L.C., a Delaware
limited liability company doing business in
14 California; and
DOES 1 through 50, inclusive,
15 Defendants.

COMPLAINT FOR INJUNCTION,
CIVIL PENALTIES, AND OTHER
EQUITABLE RELIEF

- 1) RED LIGHT ABATEMENT AND
INJUNCTIVE RELIEF (PENAL CODE
§§ 11225, et seq.); AND
- 2) MAINTENANCE OF A PUBLIC
NUISANCE AND INJUNCTIVE RELIEF
(CALIFORNIA CODE OF CIVIL
PROCEDURE §§3479 & 3480)

19 Plaintiff People of the State of California appearing by and through Jan I. Goldsmith, City
20 Attorney for the City of San Diego, State of California, and Nicole Pedone, Deputy City
21 Attorney, based upon information and belief allege:

22 JURISDICTION AND VENUE

23 1. Plaintiff People of the State of California, by this action and pursuant to California
24 Penal Code section 11226, the California Red Light Abatement Act [Act], and California Code of
25 Civil Procedure section 731, seeks to enjoin Defendants from engaging in the conduct alleged in
26 this Complaint, to abate and prevent the nuisance per se, seek injunctive relief, civil penalties,
27 investigative costs, and other equitable relief for Defendants' violations of the law.

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1 La Quinta
2 10185 Paseo Montril
3 San Diego, CA

3 **DEFENDANTS**

4 6. Defendant BRE/LQ PROPERTIES L.L.C., a Delaware limited liability company
5 doing business in California, is doing business as the La Quinta Hotel at the PROPERTY and
6 is the property owner and business owner who has sole ownership of and responsibility of the
7 management of the PROPERTY.

8 7. Defendants DOES 1 through 50, inclusive, are sued as fictitious names, under the
9 provisions of California Code of Civil Procedure section 474, their true names and capacities
10 being unknown to Plaintiff. The City is informed and believes that each of Defendants DOES 1
11 through 50, is in some manner responsible for conducting, maintaining or directly or indirectly
12 permitting the unlawful activity alleged in this Complaint. Plaintiff will ask leave of the court to
13 amend this Complaint and to insert in lieu of such fictitious names the true names and capacities
14 of DOES 1 through 50 when ascertained.

15 8. Whenever reference is made in the Complaint to any act or omission of one or more of
16 the Defendants, it shall be deemed to mean the act of each and every Defendant acting
17 individually, jointly, and severally.

18 **STATEMENT OF FACTS**

19 9. From approximately December 6, 2010 through January 27, 2013, there were at least
20 102 police calls for service at the PROPERTY resulting in 266.23 total hours spent responding to
21 these calls. Calls included, but were not limited to, arrests, picking up individuals with warrants,
22 and responding to "disturbing the peace" calls. This does not include the amount of time spent on
23 undercover operations done at the PROPERTY by the San Diego Police Department addressing
24 prostitution-related crimes.

25 10. During 2012 and 2013, the San Diego Police Department conducted several
26 undercover operations and inspections at the PROPERTY. During their investigation, it was
27 discovered that numerous females have been advertising themselves for sex on a webpage named
28 "Backpage.com." When contacting these females, the undercover officers are told to meet them at

1 the PROPERTY in a particular numbered room. Upon meeting the female in the room at the
2 PROPERTY, the female agrees to perform sex acts in exchange for money. The female is then
3 arrested for prostitution. The specifics are as follows:

4 • On March 21, 2012, undercover San Diego Police Detectives conducted an
5 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
6 performance of a sexual act in exchange for money from two prostitutes advertising online.

7 • On March 22, 2012, undercover San Diego Police Detectives conducted an
8 undercover operation at the PROPERTY. Twice, Detectives posed as patrons and negotiated the
9 performance of a sexual act in exchange for money from a prostitute advertising online and
10 charged the female with two counts of prostitution.

11 • On May 24, 2012, undercover San Diego Police Detectives conducted an
12 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
13 performance of sexual intercourse in exchange for money from a prostitute advertising online.

14 • On September 13, 2012, undercover San Diego Police Detectives conducted an
15 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
16 performance of sexual intercourse in exchange for money from a prostitute advertising online.
17 Detectives also arrested a juvenile in the same room the female was arrested for prostitution.

18 • On November 30, 2012, undercover San Diego Police Detectives conducted an
19 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
20 performance of sexual acts in exchange for money from a prostitute advertising online.

21 • On December 13, 2012, undercover San Diego Police Detectives conducted an
22 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
23 performance of sexual intercourse in exchange for money from prostitutes advertising online. On
24 this date, Detectives arrested three women for prostitution and one woman who an active warrant.

25 • On January 11, 2013, San Diego Police Detectives learned of a known male pimp
26 staying at the PROPERTY. Detectives observed the man believed to be the pimp and another
27 man, fitting the description of a male who had an active warrant, enter a room at the PROPERTY
28 and leave with a six year old boy, later found to be the pimp's son. The Officers found the boy's

1 mother in the room who admitted to engaging in acts of prostitution. The woman was
2 subsequently arrested at the PROPERTY for an active warrant and the man identified as the pimp
3 and father of the child was arrested for human trafficking pursuant to California Penal Code
4 section 236.1(A), pimping (or otherwise known as pandering) pursuant to California Penal Code
5 section 266H(A), and child endangerment pursuant to California Penal Code section 273A(A).

6 • On January 23, 2013, undercover San Diego Police Detectives conducted an
7 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
8 performance of sexual acts in exchange for money from a prostitute advertising online.

9 • On March 19, 2013, undercover San Diego Police Detectives conducted an
10 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
11 performance of sexual acts in exchange for money from a prostitute advertising online.

12 • On April 3, 2013, undercover San Diego Police Detectives conducted an
13 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
14 performance of sexual acts in exchange for money from a prostitute advertising online. The
15 prostitute was a juvenile and Detectives arrested the male individual with her for violating Penal
16 Code section 266(1), Pandering.

17 • On July 26, 2013, undercover San Diego Police Detectives conducted an
18 undercover operation at the PROPERTY. Detectives posed as patrons and negotiated the
19 performance of sexual acts in exchange for money from a prostitute advertising online.

20 11. After each undercover operation at the PROPERTY, hotel management on site was
21 informed of the operation and of any arrest made at the PROPERTY.

22 12. Hotel management did not cooperate with the San Diego Police Detectives' request
23 for copies of any relevant hotel registries as required by San Diego Municipal Code section
24 52.9103, video footage and keys to rooms needed for their investigations.

25 13. Hotel management did place each arrested person on a "do not rent" list and did
26 maintain a "do not rent" list but otherwise did not make any physical changes at the PROPERTY
27 or changes to their management of the hotel at the PROPERTY or management practices at the
28 PROPERTY.

1 14. During the above undercover operations there was no visible security working at the
2 PROPERTY.

3 15. There is limited video surveillance of the PROPERTY and there is poor lighting at the
4 PROPERTY.

5 16. The hotel on the PROPERTY allows guests to pay with cash for a room being rented
6 without requiring an additional cash deposit for the room. In addition, they do not register guest
7 vehicles or vehicles parked on the PROPERTY.

8 17. Plaintiff has no adequate remedy at law other than this action. Defendants are blatantly
9 and willfully in violation of the law and will continue to maintain the nuisance on the
10 PROPERTY and thus unlawful violations in the future unless the Court enjoins and prohibits
11 such conduct.

12 I

13 **FIRST CAUSE OF ACTION**

14 **VIOLATIONS OF THE RED LIGHT ABATEMENT ACT**
15 **ALLEGED BY PLAINTIFF AGAINST ALL DEFENDANTS**
16 **FOR MAINTAINING A NUISANCE PER SE AT THE**
17 **PROPERTY**

18 18. Plaintiff People of the State of California realleges and incorporates by reference all
19 allegations contained in Paragraphs 1 through 17 of this Complaint as though set forth here in
20 their entirety.

21 19. Subdivision (a) of California Penal Code section 11225 provides, in pertinent part,
22 that: “[E]very building or place used for the purpose of . . . prostitution . . . is a nuisance which
23 shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is
24 a public or private nuisance.”

25 20. Beginning on an exact date unknown to Plaintiff, but at least since March 21, 2012,
26 and continuing to the present, the PROPERTY, including the buildings thereon, and/or portions
27 of the building thereon, is, and at all times mentioned in this Complaint was, used for the purpose
28 of prostitution. The specific acts which have been and are occurring on the PROPERTY include

1 the exchange of money for sexual intercourse, oral copulation, masturbation and other related sex
2 acts.

3 21. California Penal Code section 11226 gives the City Attorney the authority to bring an
4 action to abate this nuisance per se.

5 22. Both an injunction and an order for abatement are appropriate in this case given that
6 nuisance described above is causing the public irreparable harm, no action in law can remedy this
7 harm, and the harm that the public is likely to suffer if the Court declines the order these equitable
8 remedies is greater than the harm that the Defendants will likely suffer if the Court grants the
9 remedies. Absent the relief requested by Plaintiff, the City is denied any ability to exercise its
10 legitimate power to control and regulate land uses with respect to Defendants' activities.

11 23. The nuisance vitiates the quality of life of everyone in the City of San Diego by
12 lowering property values, encouraging illegal drug use, prostitution, and other crimes, and
13 contributing to the proliferation of similar nuisances. The threat of this irreparable and permanent
14 damage justifies the Court's issuance of an injunction as authorized by the Red Light Abatement
15 Act, specifically, California Penal Code section 11227(a). Without an injunction the nuisance is
16 likely to continue.

17 **II**

18 **SECOND CAUSE OF ACTION**

19 **VIOLATIONS OF THE RED LIGHT ABATEMENT ACT**
20 **ALLEGED BY PLAINTIFF AGAINST ALL DEFENDANTS**
21 **FOR MAINTAINING A NUISANCE PER SE AT THE**
22 **PROPERTY**

23 24. Plaintiff realleges and incorporates by reference all allegations contained in
24 Paragraphs 1 through 23 of this Complaint as though set forth here in their entirety.

25 25. Subdivision (a) of California Penal Code section 11225 provides, in pertinent part,
26 that: "Every building or place used for the purpose of . . . lewdness . . . is a nuisance which shall
27 be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a
28 public or private nuisance."

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31. California Penal Code section 11230(a) provides, in pertinent part, that:

If the existence of a nuisance is established in an action as provided in this article, an order of abatement shall be entered as a part of the judgment in the case, directing the removal from the building or place of all fixtures, musical instruments and movable property used in conducting, maintaining, aiding, or abetting the nuisance, and directing the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and that it be kept closed for a period of one year, unless sooner released.

32. Beginning on an exact date unknown to Plaintiff, but at least since March 21, 2012, and continuing to the present, the fixtures and other movable property on the PROPERTY, including the buildings thereon, and/or portions of the building thereon, have been used or are used, in conducting, maintaining, aiding, or abetting, the nuisance as described above.

33. Unless Defendants are restrained by order of this Court, they will continue to use, occupy, maintain, allow, or permit the use, occupation, and maintenance of the PROPERTY as a public nuisance in violation of the laws of the State of California and City of San Diego.

IV
FOURTH CAUSE OF ACTION

**VIOLATIONS OF THE RED LIGHT ABATEMENT ACT
JUSTIFYING AN ORDER FOR THE IMPOSITION OF
PENALTIES AND DAMAGES ALLEGED BY PLAINTIFF
AGAINST ALL DEFENDANTS**

34. Plaintiff People of the State of California realleges and incorporates by reference all allegations contained in Paragraphs 1 through 33 of this Complaint as though set forth here in their entirety.

35. California Penal Code section 11230(a) of the Act provides, in pertinent part, that:

If the court finds that any vacancy resulting from closure of the building or place may create a nuisance or that closure is otherwise harmful to the community, in lieu of ordering the building or place closed, the court may order the person who is responsible for the existence of the nuisance to pay damages in an amount equal to the fair market rental value of the building or place for one year to the city or county in whose jurisdiction the nuisance is located.

36. In lieu of closure, the Court may order the Defendants to pay damages in

1 the amount equal to the fair market rental value of the PROPERTY for one (1) year.

2 37. Notwithstanding the above, the Court may assess a civil penalty not to
3 exceed \$25,000 against any and all Defendants, for each violation of California Penal Code
4 section 11225.

5 V

6 FIFTH CAUSE OF ACTION

7 MAINTENANCE OF A PUBLIC NUISANCE IN VIOLATION
8 OF CALIFORNIA CIVIL CODE SECTIONS 3479 AND 3480
ALLEGED BY PLAINTIFF AGAINST ALL DEFENDANTS

9 38. Plaintiff realleges and incorporates by reference all allegations contained in
10 Paragraphs 1 through 37 of this Complaint as though set forth here in their entirety.

11 39. California Civil Code sections 3479 and 3480 provide that:

12 Anything which is injurious to health, including, but not limited to, the
13 illegal sale of controlled substances, or is indecent or offensive to the
14 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.

15 40. Beginning on an exact date unknown to Plaintiff, but at least since March 21, 2012,
16 and continuing to the present, Defendants have caused and maintained a continuing public
17 nuisance at the PROPERTY.

18 41. Beginning on an exact date unknown to Plaintiff, but at least since November 14,
19 2011, and continuing to the present, the PROPERTY, including the buildings thereon, and/or
20 portions of the building thereon, has been used for the purpose of lewdness and prostitution and is
21 a place where acts of lewdness and prostitution occur.

22 42. The PROPERTY is open to the public and used by a large number of City
23 residents and visitors/tourists on a daily basis.

24 43. The number of arrests combined with the PROPERTY's reputation as a place
25 where lewdness and prostitution occurs constitutes a continuing public nuisance. Despite
26 Defendants' knowledge of the prostitution activity at the PROPERTY, Defendants' has refused to
27 address the issues, thus the public nuisance continues. The health and safety of the public and
28 City residents is being placed at risk by the Defendants' continued refusal to remedy the nuisance

1 conditions existing at the PROPERTY in violation of the provision of the California Red Light
2 Abatement Act. The conditions existing at the PROPERTY constitute a nuisance per se, as the
3 primary activity encourages or permits prostitution and lewdness thus endangering the
4 community.

5 44. Defendants' maintenance of the PROPERTY in the condition described above
6 constitutes a continuing public nuisance as defined by California Civil Code sections 3479 and
7 3480. Defendants' PROPERTY adversely affects the entire community and neighborhood. The
8 PROPERTY, as it currently exists, is injurious to the health, safety, and welfare of the residents
9 and families who live in the community and interferes with the comfortable use and enjoyment of
10 life and property. Such conditions are objectionable to the neighborhood and community as a
11 whole.

12 45. The City cannot be compensated in damages and is without an adequate
13 remedy at law because the exact amount of damages City will sustain cannot be determined, the
14 violations are continuous and furthermore an award of damages to City would not redress any
15 physical harm City residents may suffer as a result of the conditions.

16 46. Defendants will, unless restrained by this Court, continue to maintain the
17 violations complained of, and each and every act and failure to act has been, and will be, without
18 the consent, against the will, and in violation of the rights of the People of the State of California
19 and the citizens of the City and County of San Diego.

20 47. Under California Civil Code section 3491 and the California Code of Civil
21 Procedure sections 526 and 731, the City may bring a civil action to enjoin a public nuisance,
22 such as the ones existing at the PROPERTY.

23 **PRAYER FOR RELIEF**

24 **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them, as
25 follows:

26 1. That the PROPERTY, including the buildings thereon, and/or portions of the building
27 thereon, be declared in violation of:

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California Penal Code section

11225(a)

California Civil Code sections

3479 3480

2. That pursuant to California Penal Code section 11226, the California Red Light Abatement Act, and California Code of Civil Procedure section 731, and the Court's inherent equity powers, 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, the occurrence, continuance, or reoccurrence of acts of lewdness or prostitution, solicitation, or human trafficking upon the premises and buildings located at the PROPERTY;
- b. Maintaining any violations of the San Diego Municipal Code (SDMC) sections related to Hotels, Motels, Inns, Auto Courts, Trailer Parks, Transient Lodging Places, Chapter 5, Article 2, Division 91 (sections 52.9100–52.9105) at the PROPERTY or at any other property or premises in the City of San Diego;
- c. Maintaining any violations of California Penal Code sections 11225 and 11227 at the PROPERTY or at any other property or premises in the City of San Diego; and
- d. maintaining nuisance conditions on the PROPERTY in violation of California Civil Code sections 3479, 3480.

3. A civil penalty against each Defendant in the maximum amount authorized under California Penal Code section 11230(b), or \$25,000 for each act in violation of California Penal Code section 11225.

4. For an order of abatement directing the removal from the PROPERTY, including the buildings thereon, and/or portions of the building thereon, all fixtures and movable property used in conducting, maintaining, aiding, or abetting, the nuisances described above, and directing the

1 sale thereof in the manner provided for the sale of chattels under execution, and the effectual
2 closing of the PROPERTY for a period of one year, for any purpose, unless sooner released.

3 5. Alternatively, in lieu of closure, Defendants shall pay damages in an amount not to
4 exceed the fair market rental value of the PROPERTY for one year pursuant to California Penal
5 Code section 11230(a).

6 6. That Plaintiff recovers the costs of this suit including any investigation costs,
7 abatement costs, or other fees due to the City related to the activities herein alleged.

8 7. Allow personnel from the City of San Diego or San Diego Police Department access
9 to the PROPERTY to inspect and monitor for compliance upon 24-hour verbal or written notice.

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

12 Dated: 10-22 2013

13 JAN I. GOLDSMITH, City Attorney

14
15 By 

16 Nicole Pedone
17 Deputy City Attorney

18 Attorneys for Plaintiff
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