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CIVIL BUSINESS OFFICE 9  
CENTRAL DIVISION  
2014 OCT 29 30 10:00 AM  
CLERK - SUPERIOR COURT  
SAN DIEGO COUNTY, CA

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Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN DIEGO, CENTRAL DIVISION

CITY OF SAN DIEGO, a municipal corporation,  
  
Plaintiff,  
  
v.  
  
GREEN CIRCLE COOPERATIVE, INC., a California corporation;  
MICHAEL YONO, an individual;  
THE GREEN BANNER, INC., a California corporation;  
LANCE PAUL KACHI, an individual;  
ROBYN BARRETT, an individual; and  
DOES 1 through 50, inclusive,  
  
Defendants.

Case No. 37-2014-00037170-CU-MC-CTL

UNLIMITED JURISDICTION

COMPLAINT FOR INJUNCTION,  
CIVIL PENALTIES AND OTHER  
EQUITABLE RELIEF

Plaintiff City of San Diego, appearing through its attorneys, Jan I. Goldsmith, City Attorney, by Marsha B. Kerr, Deputy City Attorney, alleges the following, based on information and belief:

JURISDICTION AND VENUE

1. Plaintiff, City of San Diego, by this action and pursuant to San Diego Municipal Code (SDMC) sections 12.0202 and 121.0311 and California Code of Civil Procedure section 526, seeks to enjoin Defendants from using or maintaining a property in violation of the San Diego Municipal Code as alleged in this Complaint, and seeks a preliminary injunction and a permanent injunction prohibiting Defendants from operating or maintaining a marijuana dispensary,

1 cooperative, collective or other distribution or sales business; and also seeks to obtain civil  
2 penalties, costs and other equitable relief for the Defendants' violations of law.

3 2. The omission or commission of acts and violations of law by Defendants as alleged in  
4 this Complaint occurred within the City of San Diego, State of California. Each of the Defendants  
5 at all times mentioned in this Complaint has transacted business within the City of San Diego or  
6 is a resident of San Diego County, or both.

7 3. The property where the business acts and practices described in this Complaint are or  
8 were performed is located in the City of San Diego.

9 **THE PARTIES**

10 4. At all times mentioned in these pleadings, Plaintiff, City of San Diego, was and is a  
11 municipal corporation and a chartered city, organized and existing under the laws of the State of  
12 California.

13 5. Defendant GREEN CIRCLE COOPERATIVE, INC. (GREEN CIRCLE) is a  
14 California corporation, which, at all times relevant to this action, is and was operating a marijuana  
15 dispensary at 1235 Hotel Circle South, Suite C, San Diego, California 92108 (PROPERTY)  
16 within the City of San Diego.

17 6. Defendant MICHAEL YONO (YONO) is an individual and resident of the County of  
18 San Diego who, at all times relevant to this action, was the president of GREEN CIRCLE and  
19 was doing business at the PROPERTY.

20 7. Defendant THE GREEN BANNER, INC. (GREEN BANNER) is a California  
21 corporation, which, at all times relevant to this action, is and was operating a marijuana  
22 dispensary at the PROPERTY.

23 8. Defendant LANCE PAUL KACHI (KACHI), is an individual and resident of the  
24 County of San Diego, who, and at all times relevant to this action, was the president of GREEN  
25 BANNER.

26 9. Defendant ROBYN BARRETT (BARRETT) is an individual and resident of the  
27 County of San Diego and owner of the PROPERTY.

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1 10. By Grant Deed recorded May 16, 2003, as Document No. 2003-0577997 in the office  
2 of the San Diego County Recorder, BARRETT was granted title to the PROPERTY, where the  
3 acts described in this Complaint occurred.

4 11. BARRETT is strictly liable for all code violations occurring at the PROPERTY  
5 pursuant to SDMC section 121.0311 and applicable California law.

6 12. Defendants are "Responsible Persons"<sup>1</sup> within the meaning of SDMC section 11.0210,  
7 as each is allowing or maintaining violations of the SDMC at the PROPERTY.

8 13. 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 14. At all relevant times mentioned in this Complaint, all Defendants were and are agents,  
16 principals, servants, lessors, lessees, employees, partners, associates and/or joint ventures of each  
17 other and at all times were acting within the course, purpose and scope of said relationship and  
18 with the authorization or consent of each of their co-defendants.

### 19 **PROPERTY**

20 15. The PROPERTY is identified as Assessor's Parcel Number 444-020-22-00, according  
21 to records in the office of the San Diego County Assessor.

22 16. The legal description of the PROPERTY is:

23 Parcel 1:

24 That portion of Lot 1 of San Diego Hiway House, in the City of San  
25 Diego, County of San Diego, State of California, according to map  
26 thereof No. 4258, filed in the Office of the County Recorder of San  
27 Diego County, July 10, 1959, described as follows:

28 <sup>1</sup> Section 11.0210 defines "Responsible Person" as "[a] person who a Director determines is responsible  
SDMC for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes.  
The term "Responsible Person" includes but is not limited to a property owner, tenant, person with a Legal  
Interest in real property or person in possession of real property."

1 Beginning at a point in the west line of said Lot 1, distant thereon  
2 130 feet northerly from the southwest corner thereof, thence  
3 southerly along said west line, 130 feet to said southwest corner;  
4 thence along the southerly line of said lot, north 74° 24' 45" east  
5 131.60 feet; thence northerly parallel with said west line to a line  
6 which bears easterly at right angles to said west line from the point  
7 of beginning; thence westerly along said line to the point of  
8 beginning.

9 Parcel 2:

10 That portion of Lot 1 of San Diego Hiway House, in the City of San  
11 Diego, County of San Diego, State of California, according to map  
12 thereof No. 4258, filed in the Office of the County Recorder of San  
13 Diego County, July 10, 1959, which lies north of a line which bears  
14 east from a point in the west line of said Lot 1 distant thereon 130  
15 feet north from the southwest corner of said lot.

16 17. The PROPERTY is located in the Mission Valley Planned District in a Mission Valley  
17 – Commercial Visitor (MV-CV) zone in the City of San Diego.

18 **FACTUAL ALLEGATIONS**

19 18. SDMC section 1514.0305 and corresponding Table 1514-03J list the permitted uses in  
20 a MV-CV zone where the PROPERTY is located. Medical marijuana consumer cooperatives  
21 (MMCCs) could be a permitted use in that zone under the current ordinance with a conditional  
22 use permit (CUP); however, there is residential area within 100 feet of the property.

23 19. GREEN BANNER and KACHI operated an unpermitted and illegal marijuana  
24 dispensary known as Crown Patients Group at 2107 Third Avenue, San Diego, California, from  
25 approximately January 2014 until October 7, 2014. GREEN BANNER and KACHI are  
26 defendants in a related case for injunctive relief and civil penalties pending before this Court,  
27 Case No. 37-2014-00016627-CU-MC-CTL entitled *City of San Diego v. The Green Banner, Inc.,*  
28 *et al.* On October 3, 2014, the Honorable Ronald S. Prager issued a preliminary injunction  
ordering that GREEN BANNER and KACHI, their agents, servants, employees, partners,  
associates, officers, representatives and all persons acting in concert of participating with or for  
them, cease operating or maintaining a marijuana dispensary, collective or cooperative at 2107  
Third Avenue within 24 hours of the Court's Order.

1 20. On several occasions during the operation of Crown Patients Group, City investigators  
2 observed YONO at 2107 Third Avenue working at the dispensary with or for GREEN BANNER  
3 and KACHI.

4 21. On October 7, 2014, a plainclothes San Diego police officer observed YONO and  
5 others moving furniture and equipment out of 2107 Third Avenue in response to the Court's  
6 preliminary injunction. The officer observed a woman speaking with YONO. YONO gave the  
7 woman a piece of paper which indicated that the new address for Crown Patients Group was 1235  
8 Hotel Circle South, Suite C. When the woman showed the paper to the SDPD officer, YONO  
9 grabbed it out of her hand. The officer spoke with YONO, who said the officer could follow  
10 Crown Patients on Instagram to obtain its new address. That same day, the officer found a link on  
11 Google Plus advertising Crown Patients Group at the PROPERTY.

12 22. On October 15, 2014, a City investigator went to 1235 Hotel Circle South and  
13 observed five people within a 15-minute period enter and exit Suite C at the property. The  
14 investigator observed YONO in the parking lot of the PROPERTY.

15 23. On October 21, 2014, a San Diego Police Department narcotics detective conducted  
16 an undercover buy of marijuana at the PROPERTY. The detective observed five glass display  
17 cases containing approximately a dozen glass jars of marijuana, pre-rolled marijuana cigarettes,  
18 marijuana wax (concentrated cannabis), marijuana edibles, candy, drinks and glass smoking  
19 pipes.

20 24. Plaintiff is informed and believes that Defendants are willfully violating state and  
21 local laws and will continue to maintain the unlawful code violations in the future unless the  
22 Court enjoins and prohibits such conduct. Absent injunctive relief, the City will be irreparably  
23 harmed and the ongoing violations will continue to harm the public health, safety, and welfare of  
24 the citizens of San Diego.

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FIRST CAUSE OF ACTION

**VIOLATIONS OF THE SAN DIEGO MUNICIPAL CODE  
ALLEGED BY PLAINTIFF CITY OF SAN DIEGO  
AGAINST ALL DEFENDANTS**

25. Plaintiff City of San Diego incorporates by reference all allegations in paragraphs 1 through 24 of this Complaint as though fully set forth here in their entirety.

26. SDMC section 121.0302(a) states, "It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code,<sup>2</sup> without a required permit, contrary to permit conditions, or without a required variance."

27. SDMC section 1514.0305(b) states:

No building or improvement, or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the uses listed for applicable zones in Table 1514-03J. The predominant land use shall be consistent with the community plan land use designation.

28. SDMC section 141.0614 specifies that medical marijuana consumer cooperatives may operate in certain zones with a CUP but that they may not operate within 100 feet of a residential area. Defendants have not obtained a CUP, nor would a CUP be granted due to the proximity of a residential area within 100 feet of the PROPERTY.

29. Since October 7, 2014, Defendants have maintained and used the PROPERTY for a purpose or activity not listed in Table 1514-03J, in violation of SDMC sections 121.0302, 1514.0305 and 141.0614.

30. Absent the relief requested by Plaintiff, the City is unable to enforce its zoning laws and therefore unable to ensure compatibility between land uses. Irreparable harm will be suffered by Plaintiff in that the City's land use scheme and regulations under the Municipal Code become meaningless and the public is left unprotected from the direct and indirect negative effects associated with unpermitted and incompatible uses in their neighborhoods.

. . . . .

<sup>2</sup> SDMC §111.0101 (a) Chapters 11, 12, 13, and 14 of the City of San Diego Municipal Code shall be known collectively, and may be referred to, as the Land Development Code.

1 **PRAYER**

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

4 1. That the PROPERTY be declared in violation of:

5 **San Diego Municipal Code sections**

6 121.0302(a) 141.061415 14.0305(b) Table 1514-03J

7 2. That pursuant to SDMC sections 12.0202 and 121.0311, California Code of Civil  
8 Procedure section 526 and the Court's inherent equity powers, the Court grant a preliminary  
9 injunction and permanent injunction enjoining and restraining Defendants and their agents,  
10 servants, employees, partners, associates, officers, representatives and all persons acting under or  
11 in concert with or for Defendants, from engaging in any of the following acts:

12 a. Maintaining, operating, or allowing at the PROPERTY any commercial, retail,  
13 collective, cooperative, or group establishment for the growth, storage, sale, or distribution of  
14 marijuana, including but not limited to any marijuana dispensary, collective, or cooperative  
15 organized pursuant to the Health & Safety Code;

16 b. Maintaining, operating, or allowing the operation of any unpermitted use at the  
17 PROPERTY;

18 c. Maintaining, operating, or allowing the operation of any unpermitted use  
19 anywhere within the City of San Diego, including but not limited to any commercial, retail,  
20 collective, cooperative, or group establishment for the growth, storage, sale, or distribution of  
21 marijuana, including but not limited to any marijuana dispensary, collective, or cooperative  
22 organized pursuant to the Health & Safety Code;

23 d. Maintaining signage on the PROPERTY advertising a medical marijuana  
24 dispensary;

25 e. Advertising in any manner, including on the Internet, the existence of any  
26 commercial, retail, collective, cooperative, or group establishment for the growth, storage, sale, or  
27 distribution of marijuana, including but not limited to any marijuana dispensary, collective, or  
28 cooperative organized pursuant to the Health and Safety Code at the PROPERTY;

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f. Violating any provisions of the SDMC at the PROPERTY.

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

4. That Plaintiff City of San Diego recover all costs incurred by Plaintiff, including the costs of investigation, as appropriate.

5. That pursuant to SDMC section 12.0202(b), Defendants be assessed a civil penalty of \$2,500 per day for each and every SDMC violation maintained at the PROPERTY.

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

Dated: October 29, 2014

JAN I. GOLDSMITH, City Attorney

By Marsha B Kerr

Marsha B. Kerr  
Deputy City Attorney

Attorneys for Plaintiff