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EXEMPT FROM FILING FEES PURSUANT TO  
GOVERNMENT CODE SECTION 6103

6 Attorneys for Plaintiff City of Costa Mesa  
and the People of the State of California  
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8 **SUPERIOR COURT OF CALIFORNIA**  
9 **COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**  
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11 CITY OF COSTA MESA, a California  
12 Municipal Corporation, and THE PEOPLE  
OF THE STATE OF CALIFORNIA, by the  
13 City Attorney for the City of Costa Mesa.

14 Plaintiffs,

15 vs.

16 NEW HARBOR INN, an unincorporated  
entity, MING CHENG CHEN, an  
17 individual, HSIANGE CHU SHIH CHEN,  
an individual, AND DOES 1-25,  
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19 Defendants.

**Case No:**

**COMPLAINT FOR TEMPORARY  
RESTRAINING ORDER, PRELIMINARY  
INJUNCTION, AND PERMANENT  
INJUNCTION TO ABATE A PUBLIC  
NUISANCE; INJUNCTIVE AND  
DECLARATORY RELIEF AND  
APPOINTMENT OF A RECEIVER; DRUG  
ABATEMENT/INJUNCTIVE RELIEF  
PURSUANT TO HEALTH & SAF. CODE §  
11570.**

**Deemed Verified (Code Civ.Proc. §446)**

20 The CITY OF COSTA MESA, a municipal corporation in the County of Orange, (“the  
21 City”) and the PEOPLE OF THE STATE OF CALIFORNIA, (“the People”) by and through the  
22 City of Costa Mesa, (collectively, “Plaintiffs”) against MING CHENG CHEN, an individual,  
23 HSIANGE CHU SHIH CHEN, an individual, the NEW HARBOR INN, an unincorporated  
24 entity, and DOES 1 through 25 (herein collectively referred to as “Defendants”) allowing and  
25 maintaining a public nuisance at the motel commonly known as the “New Harbor Inn” and the  
26 parcels on which it sits (herein referred to as the “Property”).  
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1 **I. PARTIES, JURISDICTION, AND VENUE**

2 1. The CITY OF COSTA MESA ("City") is a municipal corporation, duly organized  
3 and existing as a general law city under the laws of the State of California, and located in the  
4 County of Orange.

5 2. The City is informed and believes, and thereon alleges, that Ming Cheng Chen  
6 ("Property Owner") has been, at all times material to this action, the owner of improved real  
7 property commonly known as 2205 Harbor Boulevard, Costa Mesa, California, identified as  
8 Assessor's Parcel Number 422-193-24 ("Property"). Hsiange Chu Shih Chen and Ming Cheng  
9 Chen is also the owner of the business that is being operated at the Property which is known as  
10 the "New Harbor Inn", an unknown business organization, at the Property. The real property  
11 subject to this action is a multi-unit commercial hotel in the County of Orange, City of Costa  
12 Mesa, State of California and operates as the "New Harbor Inn" at the Property.

13 3. Defendants DOES 1 through 25 are sued under fictitious names, as their true  
14 names and capacities are unknown to Plaintiffs. Plaintiffs will amend this complaint when their  
15 true names and capacities are ascertained.

16 4. Plaintiffs bring this action under Civil Code section 3494, 3496, 3479 and 3480;  
17 Code of Civil Procedure section 731; Section 11225 of the Penal Code; Section 11570 of the  
18 Health & Safety Code, and Costa Mesa Municipal Code Sections 13-16, 13-17, 20-11 and 20-12.  
19 Plaintiffs seek to enjoin Defendants from engaging in the conduct alleged in this Complaint and  
20 to recover fees, costs and/or penalties as admitted by law relating to this enforcement action.

21 5. Plaintiffs are informed and believe and thereon allege that Defendants, at all times  
22 herein mentioned, do business as the New Harbor Inn at 2205 Harbor Boulevard in the City of  
23 Costa Mesa, in the County of Orange, in the State of California (the "Property" or the  
24 "Business"), and that all of the actions of Defendants alleged herein have occurred, been carried  
25 out or have furthered the violations of law at or in connection with the Business and/or at or in  
26 connection with the Property, and/or are associated with the New Harbor Inn at the Property,  
27 which nuisance and violations of law are sought to be restrained by this action.

1           6.       Plaintiffs are informed and believe, and based upon such information and belief,  
2 allege that, at all relevant times herein, Defendants Ming Cheng Chen and Hsiang-chu Shih  
3 Chen own, lease, sublet, use, hire, operate, manage, maintain or are holders of liens on the  
4 Property at 2205 Harbor Boulevard, or are holders of some right, title or interest in the Property  
5 and/or manages the Business operated therein commonly known as the “New Harbor Inn” which  
6 is a motel that provides low cost short and long term housing for transients and a hub of criminal  
7 activity in Orange County. It is commonly used to unlawfully sell, store, keep, or give away  
8 controlled substances. The Defendants maintain and permit the nuisance and, as a result,  
9 Plaintiffs file this action to enjoin Defendants from permitting and maintaining the nuisance, to  
10 abate the nuisance, and to obtain all additional relief to which Plaintiffs are entitled on behalf of  
11 the People of the State of California.

12           7.       According to the most recent records from the Orange County Recorder’s and  
13 Assessor’s Offices, the Property is identified as APN 422-193-24, and has its owner of record as  
14 Defendant Ming Cheng Chin.

15           8.       Venue is proper in this judicial district because the real Property at issue is located  
16 in this judicial district.

17           9.       The true names and capacities of Defendants sued herein as DOES ONE (1)  
18 through TWENTY-FIVE (25) are unknown to Plaintiffs, who therefore sue such Defendants by  
19 such fictitious names, and will amend this Complaint to show their true names and capacities at  
20 such time as they are ascertained. Plaintiffs are informed and believe and thereon allege that  
21 each of the Defendants designated herein as a DOE is legally responsible in some manner for the  
22 events and happenings alleged in this Complaint.

23           10.      Whenever in this Complaint reference is made to any act of Defendants, such  
24 allegation shall be deemed to mean Defendants, Defendants’ officers, agents, managers,  
25 representatives, employees, and/or DOES 1 through 25, who authorized such acts while actively  
26 engaged in the operation, management, direction or control of the affairs of Defendants, at the  
27 Defendants’ direction, and/or while acting within the course and scope of their duties. Reference  
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1 to Defendants shall also mean each of the Defendants individually, as well as all of the  
2 Defendants, collectively.

3 11. Defendants and each of them are directly responsible for the activities occurring  
4 on the Property as set forth below, are responsible for continuing violations of the laws and  
5 public policy of the State of California and/or local codes, regulations and/or requirements  
6 applicable to Defendants' operation and activities at the Property, and/or have permitted,  
7 allowed, caused, or indirectly furthered the activities at the Property alleged herein, and  
8 Defendants' use of and activities at the Property, or allowance of such uses and activities, are  
9 inimical to the rights and interests of the general public and constitute unlawful business  
10 practices, nuisances and/or violations of law.

11 **II. FACTS**

12 12. The New Harbor Inn has been the source of consistent and significant problems,  
13 crimes, complaints and calls for service for the Costa Mesa Police Department ("CMPD") for  
14 many years, as specified herein, and based upon evidence to be shown by Plaintiffs.

15 13. The CMPD received more than 1786 calls for service in the past 5 years for  
16 criminal activity<sup>1</sup>, including but not limited to: drug possession, drug overdose, the  
17 selling/distribution of narcotics, domestic violence, assault, battery, assault with a deadly  
18 weapon, possession of a deadly weapon, disturbing the peace, brandishing a weapon, burglary,  
19 theft, grand theft, vandalism, and violations of parole and restraining orders.

20 14. The New Harbor Inn has considerably more calls of service than the other hotels  
21 in the area. As such, CMPD spends a disproportionate amount of time policing and patrolling  
22 the New Harbor Inn.

23 15. CMPD has had 149 calls of service for Narcotics related crimes since 2010.

24 16. The New Harbor Inn is used to unlawfully sell, store, keep, or give away  
25 controlled substances.

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28 <sup>1</sup> The calls of service are through February of 2016.

1           17.    Examples of some of the narcotics related contacts that CMPD has had at the New  
2 Harbor Inn are:

3           a)       On February 5, 2010, CMPD officers went to the New Harbor Inn for  
4 routine patrol. When they arrived, they recognized a subject based on multiple  
5 previous contacts. The subject appeared to be nervous, had rapid speech,  
6 twitched, scratched, could not focus, and gave officers false information in  
7 regards to his room number. After consenting to a search of his room, police  
8 officers located two additional occupants as well as 1.79 grams of  
9 methamphetamine, a scale with white crystal substance on it, a pipe used for  
10 smoking, and a stolen checkbook. Upon arrest, the initial subject resisted arrest  
11 and admitted to using and selling methamphetamine. The subjects were charged  
12 with Penal Code Section 148, Delaying, Obstructing, or Resisting Arrest; Penal  
13 Code Section 148.9, Providing False Information to a Police Officer; Penal Code  
14 Section 496, Receiving Stolen Property; Health & Safety Code Section 11550,  
15 Under the Influence of a Controlled Substance; Health & Safety Code Section  
16 11377, Possession of a Controlled Substance; and Health & Safety Code 11364,  
17 Possession of Drug Paraphernalia.

18           b)       On July 8, 2010, an undercover CMPD officer approached two people at  
19 the New Harbor Inn and inquired where she could obtain cocaine. The occupants  
20 of the hotel stated that they only had heroin and ecstasy, but they would have to  
21 transport it from Huntington Beach. The officer gave the subjects \$60 for the  
22 contraband and the transaction occurred. Subsequently, the New Harbor Inn  
23 occupants were charged with Health & Safety Code Section 11378, Possession of  
24 a Controlled Substance for Sale and Health & Safety Code Section 11379,  
25 Transportation of a Controlled Substance.

26           c)       On May 17, 2011, CMPD officers went to the New Harbor Inn because  
27 they had received information that one of the occupants was selling heroin out of  
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1 the room of the hotel and had an active warrant while on felony probation. Upon  
2 locating the occupant in his room, officers conducted a search of the hotel room  
3 and recovered the following items: 5.5 grams of heroin, 2.4 grams of marijuana, a  
4 scale, pen tubes used for smoking narcotics, \$800 dollars, multiple cellular  
5 phones, a bat, and a club. The subject admitted to officers that he was conducting  
6 sales and smoked heroin prior to the officers entering the room. The subsequent  
7 charges were for the individual were: Health & Safety Code Section 11351,  
8 Possession of Narcotics for Sale; Health & Safety Code Section 11364,  
9 Possession of Drug Paraphernalia; and Penal Code section 12020 (a) (1),  
10 Unlawful Carrying and Possession of Weapons.

11 d) On May 13, 2012, CMPD went to the New Harbor Inn in response to a  
12 911 call regarding possible overdose in Room #108. Officers discovered the  
13 unconscious subject (known to police for having a history of using heroin) with  
14 numerous new and old injections marks on left and right arms. Once paramedics  
15 arrived, the subject became so violent and agitated that restraints had to be  
16 employed. The subject was charged with Health & Safety Code Section 11550,  
17 Under the Influence of a Controlled Substance.

18 e) On March 12, 2014, CMPD officers went to the New Harbor Inn to  
19 conduct a probation search for Room #118. During the search, officers  
20 discovered three large bags totaling 6.6 ounces of marijuana. Subsequently, the  
21 occupants were charged with Health & Safety Code Section 11359, Possession of  
22 Marijuana for Sale.

23 f) On March 31, 2014, CMPD officers were on routine patrol near the New  
24 Harbor Inn when they recognized a male from previous law enforcement contacts.  
25 The male acted suspiciously and avoided the officers when they approached him.  
26 Once the police were able to make contact, the male stated that he was on  
27 probation and consented to a search. A methamphetamine pipe was recovered in  
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1 the search. The male admitted to meeting a friend at the hotel in order to obtain  
2 methamphetamine. The male was charged with Health & Safety Code Section  
3 11364, Possession of Drug Paraphernalia and Health & Safety Code Section  
4 11352, Loitering in a Public Place with the Intent to Commit a Drug Offense.

5 g) On May 22, 2014, CMPD officers were on routine foot patrol at New  
6 Harbor Inn located when the officers observed several people loitering on the  
7 hotel's staircase. When officers approached, a few subjects ran into different  
8 rooms and shut the doors. One of the subjects hid behind a bush and was  
9 recognized by officers from previous law enforcement contacts. When they made  
10 contact with the individual, they found used syringes and a broken cell phone  
11 where the subject was standing. The subject admitted possession of the syringes.  
12 He was subsequently charged with Health & Safety Code Section 11364,  
13 Possession of Drug Paraphernalia.

14 h) On May 27, 2014, CMPD officers were dispatched to the New Harbor Inn  
15 for a compliance check. One of the subjects of the compliance check was a Penal  
16 Code Section 290 sex registrant and parolee. When officers conducted a search of  
17 his room, they found the following: plastic baggie with 0.40 grams of  
18 methamphetamine, large bag containing 26.24 grams of methamphetamine, a  
19 large bag containing 23.23 grams of black tar heroin, prescription drugs, used  
20 syringes, plastic straws consistent with drug use, and a small bag with syringes  
21 and spoons with burn marks, multiple computers, and pornographic magazines.  
22 The occupant was arrested for various narcotics offenses and booked for a parole  
23 violation.

24 i) On May 28, 2014, CMPD officers were dispatched to the New Harbor Inn  
25 to investigate an assault. When the officers arrived, a female claimed her  
26 boyfriend allowed a local prostitute to steal several items from her. During the  
27 investigation, officers observed, in plain view, a glass pipe, a scale, and a baggie  
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1 containing 0.25 grams of methamphetamine. The boyfriend was subsequently  
2 charged with Health & Safety Code Section 11351, Possession of Narcotics for  
3 Sale.

4 j) On June 18, 2014, CMPD officers were dispatched to the New Harbor Inn  
5 regarding a stolen cell phone. Upon contacting the person with the cell phone,  
6 police asked the individual if he had any other contraband. The individual denied  
7 such possession and consented to the search of his hotel room. The following was  
8 recovered in the search of the room: a large plastic tub containing 14 lbs. of  
9 marijuana; two bags of marijuana containing 29.16 grams and 7.29 grams; metal  
10 spoons and syringes; 10mg Diazepam pills; 30mg Oxycodone pills; 30mg  
11 OxyContin pills; 800mg Sulfamethoxazole/Trimethoprim DS pills; and 325mg  
12 Oxycodone/Hydrochloride/Acetaminophen. This individual was charged with a  
13 multitude of felony and misdemeanor narcotics charges.

14 k) On September 4, 2014, CMPD officers were on foot patrol at the New  
15 Harbor Inn when they observed two males behaving suspiciously. Officers asked  
16 to talk to the males and they agreed to speak with law enforcement. During the  
17 contact, officers observed one of the males exhibiting signs consistent with being  
18 under the influence of a controlled substance. That male admitted to having a  
19 knife on his person and using cocaine an hour prior. The male was subsequently  
20 charged with Health & Safety Code Section 11550, Under the Influence of a  
21 Controlled Substance.

22 l) On January 2, 2015, CMPD officers were dispatched to the New Harbor  
23 Inn received a call about a suspicious occupant. When police arrived, the  
24 occupant was located in the hotel lobby. Upon further inquiry, the occupant had  
25 an active warrant for his arrest. During the search incident to the arrest on the  
26 warrant, the officers recovered 0.48 grams of methamphetamine. The occupant  
27 was charged with Health & Safety Code Section 11377, Possession of a  
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Controlled Substance.

m) On February 4, 2015, CMPD officers were dispatched to the New Harbor Inn for a probation check. The search of the probationer's room yielded 17.39 grams of heroin, and a multitude of stolen identification cards and credit cards. The occupants were charged with Health & Safety Code Section 11350, Possession of a Controlled Substance and Penal Code Section 496, Receiving Stolen Property.

n) On February 25, 2015, CMPD officers, on routine patrol near the New Harbor Inn, observed two bicyclists riding in the wrong direction on the roadway. When the officers tried to initiate a stop, one of the bicyclists fled. As he fled, he threw an item into the grass. The discarded item was determined to be 3.16 grams of methamphetamine. Upon locating and contacting the fleeing cyclist, the cyclist was charged with Health & Safety Code Section 11377, Possession of Methamphetamine.

o) On March 3, 2015, CMPD officers went to the New Harbor Inn in reference to two females fighting on the property. One of the females had two felony warrants. Upon a search incident to her arrest, a scale along with 4.34 grams of methamphetamine was located in the women's room. The women were charged with Health & Safety Code Section 11378, Possession of a Controlled Substance for Sale.

p) On March 20, 2015, CMPD officers were dispatched to the New Harbor Inn in reference to a welfare check. Police arrived to find a sweaty naked occupant pounding on the walls screaming, "I'm tripping out!" and "Oh God damn they are going to kill me!" The occupant was punching the air and speaking rapidly. The occupant was consequently charged with Health & Safety Code Section 11550, Under the Influence of a Controlled Substance.

q) On May 22, 2015, CMPD officers were on routine patrol when they

1 observed a suspicious looking subject standing outside of a room of the New  
2 Harbor Inn. The subject was holding two backpacks and dropped them  
3 immediately upon seeing law enforcement. The police officers contacted the  
4 subject and discovered the subject is on formal felony probation. Upon a search  
5 of the bags, .27 grams of methamphetamine were located; thus, the subject was  
6 charged with Health & Safety Code Section 11377, Possession of  
7 Methamphetamine.

8 r) On May 30, 2015, CMPD officers went to the New Harbor Inn to conduct  
9 a probation check. The officers located a subject sitting on the ground in the back  
10 corner of the hotel. Police contacted the subject and observed a pipe with white  
11 residue in plain view. The subject admitted that he was on probation and that the  
12 pipe belonged to him. He was charged with violations of Health & Safety Code  
13 Section 11364, Possession of Drug Paraphernalia; and Health & Safety Code  
14 Section 13777, Possession of Methamphetamine.

15 s) On June 26, 2015, CMPD officers were on routine patrol at the New  
16 Harbor Inn when they observed a subject who appeared disoriented and  
17 hallucinating. The subject had multiple previous contacts with police for drug  
18 related matters. Upon a search of the subject's fanny pack, the officers observed:  
19 a glass pipe with black residue and white powdery substance found inside, and  
20 three pieces of aluminum foil with black residue. The items were consistent with  
21 drug use. The subject was charged with Health & Safety Code 11364, Possession  
22 of Drug Paraphernalia.

23 18. In addition to the criminal violations, the New Harbor Inn has had a number of  
24 problems with property maintenance. The violations have resulted in a number of inspections of  
25 the Property. Within the last five years, the Code Enforcement Division and the Fire Department  
26 discovered the following:

27 a) On March 11, 2010, the Property received notices of violations for the  
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1 storage of junk, trash and debris in the parking lot. Also, there were a number of  
2 inoperable vehicles in the parking lot. Based upon the observed violations, the  
3 Property was issued a Notice of Violation that provided them with seven days to  
4 correct the violations. The violations were corrected within the seven days.

5 b) On August 24, 2012, the Property received Fire Code violations for:  
6 failing to have smoke detectors in 30 of the rooms, improper exits, failure to have  
7 operational fire extinguishers, fire hazards caused by extension cords,  
8 combustible materials and the structure was not properly fire proofed. In  
9 addition, the pool at the Property had to be “red tagged” and deemed unsafe.  
10 Also, the residence on the Property had to be “red tagged” due extreme hoarding  
11 conditions. The City issued a Notice of Violation that provided the Property with  
12 30 days to correct the violations. The violations were corrected within the 30  
13 days

14 c) During an inspection on March 5, 2014, there were 79 violations of the  
15 Costa Mesa Municipal Code. The 79 violations were observed in 33 rooms of the  
16 New Harbor Inn. The violations ranged from broken windows, holes in screens,  
17 peeling paint, unsealed toilets and shower heads. During the inspection, there  
18 were only eight rooms, including storage rooms and rooms for staff, which did  
19 not have any violations. The City issued a Notice of Violation that provided the  
20 Property with 30 days to correct the violations. The violations were corrected  
21 within the 30 days

22 d) During an inspection that took place on March 26, 2015, there were 16  
23 violations observed in the 10 rooms that were allowed to be inspected. The  
24 violations ranged from cracked windows to cracked windows to peeling paint.  
25 The City issued a Notice of Violation that provided the Property with 30 days to  
26 correct the violations. The violations were corrected within the 30 days

27 e) On March 30, 2015, the Property received a notice of violation for  
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1 construction without the necessary permits. A Notice of Violation was issued to  
2 the Property that determined that the Property would be fined if the violation was  
3 not corrected within the 30 days. The permits were obtained within the 30 days.

4 **FIRST CAUSE OF ACTION**

5 **PUBLIC NUISANCE**

6 **(Preliminary and Permanent Injunction**

7 **[Cal. Civ. Code §§ 3494, 3479 3480 and 3496 and Cal. Pen. Code §§ 370 and 11225])**

8 **(All Defendants and Does 1-25)**

9 19. Plaintiffs re-allege and incorporate herein by reference as if alleged herein the  
10 allegations in paragraphs 1 through 18.

11 20. This action is brought pursuant to Section 731 of the California Code of Civil  
12 Procedure, by and through the City of Costa Mesa, in the name of the People of the State of  
13 California, to abate a public nuisance, as well as by the authority granted in California Civil  
14 Code Sections 3494, 3479, 3480 and 3496, Costa Mesa Municipal Code sections 13-16, 13-17,  
15 20-11 and 20-12 and/or California Penal Code Sections 370 and 11225.

16 21. Defendants, and each of them, have permitted and maintained a continuing public  
17 nuisance and/or nuisance per se on the Property for at least the past several years, and continuing  
18 presently. Plaintiffs are informed and believe that the circumstances constituting a public  
19 nuisance and/or public nuisance per se, as alleged herein, may have been going on since at least  
20 2010. Conditions which render the property a public nuisance and/or public nuisance per se  
21 include, but are not limited to, the following violations of laws and ordinances:

22 a) Penal Code Sections 240/242 (assault and battery), 245 (assault), 415  
23 (disturbing peace), 459 (burglary), 647(a) (lewd act in public), 211 (robbery), 261  
24 et. seq. (sexual assault), 422 (terrorist threats), 602 (trespass), 520 (extortion), 594  
25 (vandalism), 647 (disorderly conduct), 487 (grand theft auto) 12020, possession  
26 of a deadly weapon, 148.9, providing false identification to the police, and 368  
27 (elder abuse);

- 1           b)       Health and Safety Code Sections 11364 (possession of drug paraphernalia),
- 2                   11377 (possession of methamphetamine), 11379 (transporting controlled
- 3                   substances for sale), 11359, possession of marijuana for sale, 11352, loitering in a
- 4                   public place with the intent to commit a drug offense, 11350 (possession of
- 5                   controlled substance), 11351 (possession for sale), and 11570 (abatement);
- 6           c)       Business & Professions Code Sections 17200 and 17203 (injunction
- 7                   against unlawful business practices);
- 8           d)       Costa Mesa Municipal Code Sections 20-11 (nuisance); 20-12 (zoning
- 9                   violations); and 20-6 (Property Maintenance).
- 10          e)       California Fire Code Sections 4603.6 (missing fire alarms); 1030.2
- 11                   (improper exits); 906.1 (unmaintained fire extinguisher boxes); 605.3.1
- 12                   (unlabeled electrical panels).

13           22.       Costa Mesa Municipal Code Section 20-11 states, in all relevant parts, that a  
14 property is a public nuisance if it “generates an unusually high number of calls for police, code  
15 enforcement and/or fire service due to illegal activity and/or public nuisance conditions, or where  
16 an unusual amount of criminal activity takes place as demonstrated by police calls and/or reports.  
17 An unusual number of calls for service, or an unusual amount of criminal activity, may be  
18 determined in part by comparing similar or neighboring properties in similar zones or within the  
19 same or a similar neighborhood within the city.”

20           23.       Defendants have received 1786 calls of service from the CMPD within the last  
21 five years. The number of calls of service is out of line with similar hotels in the City. Further,  
22 the level of required police presence is grossly out of line with the community standards and  
23 expectations.

24           24.       Defendants’ operation and/or maintenance of the Business and/or the Property in  
25 the condition described and summarized above, and/or as shown by evidence, is a continuing  
26 public nuisance and/or public nuisance per se, pursuant to California Civil Code sections 3494,  
27 3479 and 3480. The maintenance and/or operation of the Business and/or the Property in such

1 continuous manner is injurious to the public's health, safety and welfare; offensive to the senses;  
2 and obstructs the free use of the properties in the neighborhood. Defendants' use and  
3 maintenance of the Property affects an entire community or neighborhood.

4 25. At the time of trial, Plaintiffs will move the Court to amend this Complaint to  
5 include any conditions discovered or occurring after filing this Complaint.

6 26. Unless restrained by this Court's issuance of injunctive relief as requested herein,  
7 Defendants will continue to maintain said public nuisance and/or public nuisance per se in  
8 violation of law.

9 27. Defendants' wrongful conduct alleged herein, and/or shown by evidence,  
10 constitutes a serious threat to the general health, safety, and welfare of the City of Costa Mesa  
11 and its residents and, in particular, the residents surrounding the Property, and their peaceable  
12 and safe enjoyment of property(ies).

13 28. Unless and until these activities are restrained by this Court, they will continue to  
14 cause great and irreparable injury to the residents of the neighborhood, in that their peace and  
15 tranquility are being, and have been, disturbed, and the health and safety of the public is  
16 jeopardized by the Business engaging, and continuing to engage, in activities at and/or in  
17 connection with the Property that are a detriment to the public and neighborhood and constitute a  
18 nuisance and/or nuisance per se, such as: fights; disorderly conduct; disturbances; unnecessary  
19 noise; illegal narcotics sales, possession, distribution and/or conspiracy to distribute.

20 29. Plaintiffs have no plain, adequate, or speedy remedy at law in that the level and  
21 frequency of illegal activities is of such a magnitude as to create an immediate, permanent, and  
22 perpetual risk of the health and welfare of the public and of residents of the neighborhood  
23 surrounding the Property and the whole of the community of the City of Costa Mesa; and  
24 Defendants have demonstrated a clear unwillingness and/or inability to manage and/or operate  
25 the Business or the Property in a manner that is compliant with the law and/or which is not  
26 injurious to the public health, welfare and safety. Instead, Defendants have engaged in,  
27 furthered, contributed to, fostered, encouraged, conspired to do the same, or have otherwise  
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1 allowed, permitted or participated in such harmful, dangerous and unlawful activities and  
2 operations to continue at the Business and/or the Property.

3 30. Based upon California Civil Code section 3496, or as otherwise may be provided  
4 by law, the City is entitled to recover its costs, including law enforcement costs and attorneys'  
5 fees, and/or penalties for prevailing in this action.

6 **SECOND CAUSE OF ACTION**

7 **MAINTENANCE OF A PUBLIC NUISANCE BY VIOLATIONS**

8 **OF COSTA MESA MUNICIPAL CODE**

9 **(Against All Defendants and Does 1-100)**

10 31. The City re-alleges and incorporates herein by reference as if fully alleged herein  
11 the allegations in paragraphs 1 through 30.

12 32. The City is informed and believes, and based thereon alleges, that Defendants'  
13 maintenance and use of the Property in the condition described herein constitutes a continuing  
14 public nuisance under CMMC sections 13-17, 20-11 and 20-12 and Government Code section  
15 38771. Defendants have caused and continue to maintain a public nuisance at the Property by  
16 operating the business in a manner that results in a high volume of calls for service from the  
17 CMPD. In addition, there are also frequent violations of the Health & Safety Code due to the  
18 drug activity on the property. The nuisance activity includes crimes against persons and property  
19 which violate the Penal Code including but not limited to robberies, theft, assaults, domestic  
20 violence and vandalism.

21 33. Finally, CMMC Section 13-16 permits the City to enjoin, by civil action, public  
22 nuisances.

23 34. The City is informed and believes, and based thereon alleges, that unless  
24 restrained by this Court, Defendants, and each of them, will continue to maintain the Property in  
25 the illegal and unlicensed condition as it presently exists, thereby causing irreparable injury and  
26 harm to the public's health, safety, and welfare.

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1 Business and/or the Property are a continuing public nuisance pursuant to Health and Safety  
2 Code Section 11570.

3 39. As a proximate result of the nuisance and/or nuisance per se conditions, alleged  
4 herein or to be shown by evidence, which conditions have been maintained and/or permitted by  
5 Defendants, and each of them, at the Business and/or the Property, the public health, welfare and  
6 safety has been, and continues to be, severely jeopardized.

7 40. Defendants will, unless restrained by this Court, continue to operate, maintain or  
8 allow the nuisance and/or nuisance per se conditions and activities at the Property and/or the  
9 Business to continue in violation of the rights of Plaintiffs and the public.

10 41. Plaintiff has no plain, speedy, or adequate remedy at law, and injunctive relief is  
11 expressly authorized in Sections 11570-11587 of the Health & Safety Code.

12 42. A temporary injunction to close the premises is immediately necessary to abate  
13 and prevent the continuance and/or recurrence of the nuisance and/or nuisance per se and  
14 violations of law presented by the current and continuing condition and activities on/at the  
15 Property and/or the Business.

16 43. Based upon California Civil Code section 3496, or as otherwise may be provided  
17 by law, the City is entitled to recover its costs, including law enforcement costs and attorneys'  
18 fees, and/or penalties for prevailing on the nuisance claim.

19 44. In maintaining the nuisance and/or nuisance per se conditions alleged herein or  
20 shown by evidence, Defendants, and each of them, were, at all relevant times, acting with full  
21 knowledge of the consequences and damage being caused, and their conduct was, and continues  
22 to be, willful, oppressive, and malicious; accordingly, Plaintiffs are entitled to punitive damages  
23 against Defendants in a sum to be shown at trial.

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1 **PRAYER**

2 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as  
3 follows:

4 1. For an order requiring Defendants to show cause, if any, why they should not be  
5 immediately, preliminarily and/or permanently enjoined as set forth in this complaint during the  
6 pendency of this action and/or thereafter.

7 2. That the Property and structures at 2205 Harbor Boulevard, Costa Mesa,  
8 California, together with the fixtures and movable property therein and thereon, be declared a  
9 public nuisance and/or public nuisance per se, and that all use of them and operation of the  
10 current business be temporarily and/or permanently enjoined and/or that certain activities thereon  
11 or therein be temporarily and/or permanently enjoined.

12 3. That Defendants, and each of them, their agents, officers, employees, and anyone  
13 acting on their behalf, and their heirs and assignees, be temporarily, preliminarily, and/or  
14 permanently enjoined from operating, conducting, using, occupying, or in any way permitting  
15 the use of the property and structures as a public nuisance, pursuant to Sections 11225 and 11227  
16 of the California Penal Code, Sections 3479 and 3480 of the California Civil Code, Sections 526,  
17 527 and 731 of the California Code of Civil Procedure, and/or Sections 11570, et seq. of the  
18 Health and Safety Code and the Costa Mesa Municipal Code sections 13-16, 13-17, 20-11 and  
19 20-12.

20 4. That a receiver be appointed in order to oversee and/or carry out the orders and/or  
21 actions found necessary by this Court to abate and/or enjoin the public nuisance, which have  
22 been on-going at the Property and/or in connection with the Business, pursuant to Civil Code  
23 sections 3479, 3480, 3491 and 3494, Code of Civil Procedure sections 526, 527 and 731,  
24 Government Code section 38771, Health & Safety Code sections 11362.768(b) and 11570.

25 5. For an order of abatement in accordance with Health & Safety Code section  
26 11581(a), which shall direct the removal from the Property of all fixtures and other movable  
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1 property, that is used in conducting, maintaining, aiding, or abetting the nuisance, and shall  
2 direct their sale in the manner provided for the sale of chattels under execution.

3 6. For an order requiring either of the following:

4 7. The effectual closing of the Property and its use for any purpose whatsoever, and  
5 for keeping the Property closed for a period of 365 days from the date of judgment pursuant to  
6 Health & Safety Code section 11581(b)(1); or,

7 8. That Defendants, and each of them, be ordered to pay damages in an amount  
8 equal to the fair market rental value of the Property for one year to the City pursuant to Health &  
9 Safety Code section 11581(c)(1)-(c)(2).

10 9. That Defendants, and each of them, individually, be ordered to pay a civil penalty  
11 to the City in the amount of \$25,000.00 under and in accordance with Health & Safety Code  
12 section 11581(b)(2), based upon the severity of the nuisance and its duration.

13 10. As condition of the preliminary and/or permanent injunction, Plaintiffs request  
14 that the conditions articulated in Health & Safety Code section 11574.5(f)(1)(a)-(h), and/or any  
15 conditions that the Court deem necessary to abate the nuisance be imposed on Defendants as  
16 conditions of operation which should include but not be limited to the following: require an  
17 armed security guard(s) to be present at the Property; require additional lighting in the parking  
18 lot and/or other required security measures/deterrents; the installation of security cameras  
19 throughout all common areas for the Property; the posting of signs that forbids loitering and  
20 trespassing; the warrantless search of the guest registry of the hotel; warrantless inspection of  
21 vacant rooms; compliance with established best practices for similar motels/hotels; deeming a  
22 violation of the terms of the injunction as grounds for the immediate appointment of a receiver  
23 (assuming one is not appointed as an independent remedy discussed above); deeming a violation  
24 of the terms of the injunction as grounds for the immediate revocation of certificates of  
25 occupancy and the business license.

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11. That Defendants be restrained and enjoined from transferring ownership of the Property and structures unless there is compliance with all applicable orders of this Court and requests by the City, and the Court and City have approved of such.

12. That Defendants be ordered to abate all conditions which cause the nuisance and/or nuisance per se.

13. That Plaintiff recover the costs of this suit, including reasonable attorneys' fees and investigation costs, from Defendants, their successors, and assigns, as provided by California Civil Code section 3496, or as otherwise permitted by law.

14. That Plaintiffs are entitled to such other relief as the Court deems proper, necessary or just.

Dated: April 22, 2016

JONES & MAYER

By:   
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Jamaar M. Boyd-Weatherby  
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People of the State of California and the  
City of Costa Mesa