



CITY ATTORNEY DENNIS HERRERA

NEWS RELEASE

FOR IMMEDIATE RELEASE
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Herrera blasts Mirant's 'deplorable corporate citizenship' with seismic safety lawsuit

Code violations at controversial Potrero plant mark the latest in list of threats to public health, safety and the environment

SAN FRANCISCO (April 27, 2009)—City Attorney Dennis Herrera today filed suit against Mirant (NYSE: MIR) for potentially life-threatening building code violations at its controversial Potrero power plant, blistering the Atlanta-based energy giant's "deplorable corporate citizenship" for long disregarding human health and safety in San Francisco. The 17-page complaint filed in San Francisco Superior Court charges the company with persistent violations of a City ordinance that requires seismic safety upgrades to unreinforced masonry buildings, whose structural failures in major earthquakes can cause significant loss of life and injuries. The aging diesel-fueled plant has been a flashpoint for neighborhood and environmental justice advocates for decades because of the facility's longstanding air, ground and water contamination problems, and their suspected link to atypically high rates of asthma and cancer in neighboring communities. Today's lawsuit comes after years of failed negotiations between Mirant and City leaders to address environmental, public health and safety issues—including seismic retrofits—and a series of letters over the past few months from Herrera and other City officials threatening to challenge the extension of Mirant's water permit for the plant because it continues to pollute San Francisco Bay.

"To the list of corporate lawlessness that includes polluting our air, ground and water, we can now add Mirant's defiant refusal to address safety risks to its own employees," said Herrera. "City leaders have worked for years to shutter this filthy and dangerous facility—which has no business operating in the 21st Century, let alone in a major population center. But it increasingly appears that our good faith efforts to work with Mirant have been exploited and mocked. The imperatives of public health and safety in San Francisco prevent us from continuing to tolerate this deplorable corporate citizenship. I intend to pursue a court order to force Mirant to live up to responsibilities it has too long ignored. Mirant is at the end of its rope."

Unreinforced masonry buildings, or UMBs, are masonry or concrete buildings constructed without the benefit of reinforcements. UMBs can be gravely hazardous in earthquakes, with a strong likelihood of failure in serious seismic events, including collapsing walls or the "pancaking" of entire buildings. In 1992, the San Francisco Board of Supervisors adopted the UMB Ordinance to require: (1) all owners of UMBs to be notified of potential hazards; (2) all owners to retain a licensed civil, structural engineer or architect to identify the hazard class of UMB buildings; and (3) all owners to seismically upgrade the buildings within specified requirements and time frames.

[MORE]

While the ordinance established Feb. 15, 2006 as the deadline for most building owners to complete structural seismic alterations, the City, like other regulatory agencies, extended numerous accommodations to Mirant in the expectation that the closure of its environmentally injurious power plant was imminent. Today's civil action details the history of the City's enforcement efforts at the Potrero facility, and alleges that Mirant is operating a public nuisance in violation of the California Civil Code (Sections 3479 and 3480) and San Francisco Building Code (Sections 102 and 103). Herrera's lawsuit additionally charges Mirant with unlawful and unfair business practices, in violation of California Business and Professions Code Section 17200.

If successful, Herrera's case on behalf of the City and People of the State of California could result in sweeping injunctive relief, disgorgement of all profits derived from the company's unlawful conduct, civil penalties, and costs and fees associated with the action.

The case is: *City and County of San Francisco and People of the State of California v. Mirant Potrero, LLC*, San Francisco Superior Court, filed April 27, 2009.

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9 CITY AND COUNTY OF SAN FRANCISCO AND
PEOPLE OF THE STATE OF CALIFORNIA

10
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SAN FRANCISCO

13 UNLIMITED JURISDICTION

14 CITY AND COUNTY OF SAN
FRANCISCO, a Municipal Corporation, and
15 the PEOPLE OF THE STATE OF
CALIFORNIA, by and through DENNIS J.
16 HERRERA, City Attorney for the City and
County of San Francisco,

17 Plaintiff(s),

18 vs.

19 MIRANT POTRERO, LLC, a Delaware
20 Limited Liability Company, and DOE ONE
through DOE FIFTY,

21 Defendant(s).
22

Case No.

COMPLAINT FOR INJUNCTIVE AND OTHER
RELIEF

Type of Case: (42) Other Complaint

Attachments: Exhibit A - Q

1 The CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the
2 "CITY"), and the PEOPLE OF THE STATE OF CALIFORNIA (the "PEOPLE"), by and
3 through San Francisco City Attorney Dennis J. Herrera, (collectively, "Plaintiffs"), file their
4 Complaint against Defendants MIRANT POTRERO, LLC, a Delaware limited liability company
5 "MIRANT") and DOE ONE through DOE FIFTY (collectively, "Defendants"). Plaintiffs allege
6 as set forth below:

7 INTRODUCTION

8 1. This action arises out of Defendant's ownership of five structures commonly
9 known as the "Station A Buildings", which include buildings known as the Station A, Meter,
10 Compressor, Gate House, and Sugar House Buildings (individually and collectively, the
11 "Buildings"), as a public nuisance and violating San Francisco Building Code, including Chapter
12 16B-C (the "Unreinforced Masonry Building Ordinance" or "UMB Ordinance"). The Buildings
13 are located on a site owned by Defendant bounded by Illinois Street and the San Francisco Bay,
14 and between 22nd and 23rd Street, also known as 1201, 1201 A, 1201 B and 1301 Illinois Street,
15 San Francisco, California, and more particularly described in Exhibit A, which is attached and
16 incorporated as part of this Complaint(the "Property").

17 2. By maintaining the Buildings as a public nuisance and in violation of the UMB
18 Ordinance and the San Francisco Building Code, Defendant is engaging in unfair and unlawful
19 business practices in violation of Business and Professions Code sections 17200-17210 (the
20 "Unfair Competition Law" or the "UCL").

21 3. The Station A Buildings have a significant history. The Station A Buildings
22 housed the largest steam electric plant west of the Rocky Mountains from 1903 through 1913
23 and during that time supplied almost all of San Francisco's electricity. The Station A Buildings
24 remained in operation through 1983 and continued to be modernized over the decades, but have
25 nonetheless retained their historical integrity. As part of an independent environmental review
26 document, the California Energy Commission ("CEC") has determined that at least two of the
27 Buildings, the Meter House and the Compressor House, meet the criteria for listing in the
28

1 California Register of Historic Resources ("CRHR"). The San Francisco Planning Department
2 has reviewed the CEC's analysis of these two buildings and confirmed that both buildings qualify
3 as historic resources under the California Environmental Quality Act.

4 4. Other Station A Buildings will also likely meet the criteria for listing in the
5 CRHR because the Station A Buildings consist of a cohesive set of structures that retain their
6 historic integrity both individually and collectively. The Station A Buildings are located in a
7 neighborhood that is rich with cultural and historic significance and near two officially
8 recognized historic districts, Dogpatch and Pier 70, both of which are within the larger Central
9 Waterfront District. These districts and neighborhoods maintain some of the last vestiges of the
10 original residential and commercial developments that historically accommodated local
11 industrial workers. More than 200 buildings, including the Station A Buildings, have been
12 identified by the City and County of San Francisco, as potential contributors to a Potrero Point
13 California Register Historic District. The City anticipates that there will be strong support for
14 preserving the Station A Buildings.

15 **PARTIES AND SUBJECT PROPERTY**

16 5. The CITY is a municipal corporation organized and existing under and by virtue
17 of the laws of the State of California and also is a charter city and county.

18 6. The CITY brings this action under the San Francisco Building Code, Civil Code
19 sections 3479, 3480, 3491, and 3494, and California Code of Civil Procedure section 731.

20 7. Plaintiff the PEOPLE, by and through San Francisco City Attorney Dennis J.
21 Herrera, bring this action under the Unfair Competition Law, particularly section 17206(e),
22 California Civil Code sections 3479, 3480, 3491, and 3494, and California Code of Civil
23 Procedure section 731.

24 8. From at least April 19, 1999 to now, MIRANT and DOE ONE through DOE
25 FIFTY, have been the legal owners of the Property, including all the Buildings and other
26 buildings and improvements located at the Property.

- 1 • by February 15, 2003, to have submitted a building permit application to retrofit
- 2 or demolish the Buildings;
- 3 • by February 15, 2004, to have obtained the CITY's approval to issue the permits
- 4 and to have received the issued permits; and
- 5 • by February 15, 2006, to have demolished the Buildings or have completed the
- 6 seismic upgrade work and obtained a Certificate of Final Completion from the
- 7 CITY's Department of Building Inspection "Building Inspection".

8 15. Although Defendant has known about the requirements of the UMB Ordinance
9 since at least April 1999, when Defendant acquired title to the Property, to date the Buildings
10 remain unreinforced.

11 **A. Notice of the UMB Requirements**

12 16. On or about February 3, 1993, the Superintendent of the CITY's Department of
13 Building Inspection sent a package of written materials to every owner of a UMB in
14 San Francisco, including an explanatory cover letter, a copy of the UMB Ordinance and a UMB
15 Ordinance Inventory Form that the owner was required to complete and return to Building
16 Inspection by February 15, 1994.

17 17. On or about March 15, 1994, a representative of the previous owner of the
18 Property, including the Buildings, Pacific Gas and Electric Company ("PG&E"), completed an
19 Inventory Form, identifying the Compressor Building as a Risk Level 4 UMB. A true and
20 correct copy of that Inventory Form is attached as Exhibit B and incorporated as part of this
21 Complaint.

22 18. On or about March 15, 1994, a representative of the previous owner PG&E
23 completed an Inventory Form, identifying the Meter Building as a Risk Level 4 UMB. A true
24 and correct copy of that Inventory Form is attached as Exhibit C and incorporated as part of this
25 Complaint.

26 19. On or about March 15, 1994, a representative of the previous owner PG&E,
27 completed an Inventory Form, identifying the Station A Building as a Risk Level 4 UMB. A
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1 true and correct copy of that Inventory Form is attached as Exhibit D and incorporated as part of
2 this Complaint.

3 20. On or about March 15, 1994, a representative of the previous owner PG&E
4 completed an Inventory Form, identifying the Sugar House Building as a Risk Level 4 UMB. A
5 true and correct copy of that Inventory Form is attached as Exhibit E and incorporated as part of
6 this Complaint.

7 21. On or about May 11, 1994, a representative of the previous owner PG&E
8 completed an Inventory Form, identifying the Sugar House Building as a Risk Level 4 UMB. A
9 true and correct copy of that Inventory Form is attached as Exhibit F and incorporated as part of
10 this Complaint.

11 22. No permit application for seismic retrofit was filed with the CITY by August 15,
12 1994, as required under the UMB Ordinance.

13 23. On or about December 7, 1994, Building Inspection issued a "Notice - Seismic
14 Building Hazard" regarding the Compressor Building. On or about January 4, 1995, Building
15 Inspection caused the December 7, 1994 Notice to be recorded against the title to the Property in
16 the Official Records of the City and County of San Francisco (the "Official Records"). A true
17 and correct copy of the recorded December 7, 1994 Notice is attached as Exhibit G and
18 incorporated into this Complaint.

19 24. On or about December 7, 1994, Building Inspection issued a "Notice - Seismic
20 Building Hazard" regarding the Meter Building. On or about January 4, 1995, Building
21 Inspection caused the December 7, 1994 Notice to be recorded against the title to the Property in
22 the Official Records. A true and correct copy of the recorded December 7, 1994 Notice is
23 attached as Exhibit H and incorporated into this Complaint.

24 25. On or about December 7, 1994, Building Inspection issued a "Notice - Seismic
25 Building Hazard" regarding the Station A Building. On or about January 4, 1995, Building
26 Inspection caused the December 7, 1994 Notice to be recorded against the title to the Property in
27
28

1 the Official Records. A true and correct copy of the recorded December 7, 1994 Notice is
2 attached as Exhibit I and incorporated into this Complaint.

3 26. On or about December 7, 1994, Building Inspection issued a "Notice - Seismic
4 Building Hazard" regarding the Gate House Building. On or about January 4, 1995, Building
5 Inspection caused the December 7, 1994 Notice to be recorded against the title to the Property in
6 the Official Records. A true and correct copy of the recorded December 7, 1994 Notice is
7 attached as Exhibit J and incorporated into this Complaint.

8 27. On or about December 7, 1994, Building Inspection issued a "Notice - Seismic
9 Building Hazard" regarding the Sugar House Building. On or about January 4, 1995, Building
10 Inspection caused the December 7, 1994 Notice to be recorded against the title to the Property in
11 the Official Records. A true and correct copy of the recorded December 7, 1994 Notice is
12 attached as Exhibit K and incorporated into this Complaint.

13 28. On or about April 19, 1999, Defendant MIRANT became the lawful owner of the
14 Property, including the Buildings. At the time of such purchase, five separate notices entitled
15 "Notice - Seismic Building Hazard" were recorded against title to the Property.

16 29. On or about February 20, 2002, Building Inspection sent a letter reminding
17 property owners of the deadlines concerning Risk Level-4 UMBs, including the
18 February 15, 2003 deadline for submitting a building permit application, the February 15, 2004
19 deadline for obtaining the permit, and the February 15, 2006 completion deadline for retrofit or
20 demolition.

21 **B. UMB Director's Hearings and Orders of Abatement**

22 30. By February 15, 2003, Defendant had not filed a permit application with CITY to
23 retrofit or demolish the Buildings to ensure that the Property was earthquake safe, as required
24 under the UMB Ordinance.

25 31. On or about May 7, 2003, Building Inspection issued a Notice of Director's
26 Hearing for Defendant's failure to comply with the UMB Ordinance. A Director's Hearing is a
27 hearing before the Director of Building Inspection, or the Director's designee, to determine
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1 whether a property owner has complied with the requirements of the Building Code. The
2 hearing was scheduled for June 4, 2003. Building Inspection sent a copy of the May 7, 2003
3 Notice of Director's Hearing to Defendant. True and correct copies of the May 7, 2003 Notice
4 and Building Inspection's Declaration of Service of that Notice on Defendant are attached as
5 Exhibit L and incorporated as part of this Complaint.

6 32. On or about June 4, 2003, CITY held a duly noticed Director's Hearing.
7 Defendant's representative attended the hearing. On or about June 13, 2003, the Director of
8 Building Inspection issued an Order of Abatement declaring the Property a public nuisance and
9 ordering Defendant to submit an engineers' report within 30 days, file a building permit
10 application within 60 days, obtain the building permit by February 15, 2004, and complete the
11 UMB retrofit by February 15, 2006. True and correct copies of the June 13, 2003 Order of
12 Abatement and Building Inspection's Declaration of Service of that Order on Defendant is
13 attached as Exhibit M and incorporated as part of this Complaint.

14 33. Building Inspection caused the June 13, 2003 Order of Abatement to be recorded
15 against the title to the Property in the Official Records. A true and correct copy of the recorded
16 June 13, 2003 Order of Abatement is attached as Exhibit N and incorporated a part of this
17 Complaint.

18 34. By February 15, 2004, the deadline under the UMB Ordinance to obtain an
19 approved and issued permit, Defendant had not obtained an approved and issued permit to
20 demolish or retrofit the Property to make it earthquake safe.

21 35. Because Defendant had failed to obtain a permit to retrofit or demolish the
22 Buildings, Building Inspection again scheduled a Director's Hearing for April 27, 2005 to review
23 the UMB issues at the Property. Building Inspection sent a copy to Defendant of the Notice of
24 Director's Hearing. True and correct copies of the Notice and Building Inspection's Declaration
25 of Service of that Notice on Defendant are attached as Exhibit O and incorporated as part of this
26 Complaint.

1 36. On or about April 27, 2005, CITY held a duly noticed Director's Hearing.
2 Defendant's representative attended the hearing. On or about April 29, 2005, the Acting Director
3 of Building Inspection issued an Order of Abatement declaring the Buildings a public nuisance,
4 and ordering Defendant to obtain the building permit in 30 days, and complete the UMB retrofit
5 by February 15, 2006. True and correct copies of the April 29, 2005 Order of Abatement and
6 Building Inspection's Declaration of Service of that Order on Defendant is attached as Exhibit P
7 and incorporated as part of this Complaint.

8 37. Building Inspection caused the April 27, 2005 Order of Abatement to be recorded
9 against the title to the Property in the Official Records. A true and correct copy of the recorded
10 April 27, 2005 Order of Abatement is attached as Exhibit Q and incorporated a part of this
11 Complaint.

12 38. Defendant initially appealed the April 27, 2005 Order to the San Francisco
13 Unreinforced Masonry Appeals Board, but subsequently Defendant withdrew its appeal.

14 39. To date, Defendant continues to violate the UMB Ordinance.

15 40. Defendant, as the owner of the Property has failed and continues to fail to comply
16 with the administrative orders of Building Inspection. Throughout its ownership of the Property
17 over the past almost 10 years, Defendant has had notice and knowledge that the Buildings
18 constituted a public nuisance and were being maintained in violation of law.

19 41. At the time of trial, Plaintiff will move the Court to amend this Complaint to
20 include any conditions discovered after the filing of this Complaint.

21
22 **FIRST CAUSE OF ACTION**
23 **FOR PUBLIC NUISANCE BROUGHT BY PLAINTIFF CITY AND**
 COUNTY OF SAN FRANCISCO AGAINST ALL DEFENDANTS

24 **COUNT ONE**
25 **PUBLIC NUISANCE *PER SE***
26 **FOR VIOLATIONS OF THE SAN FRANCISCO BUILDING CODE**
 (San Francisco Building Code Sections 102, 103)

27 42. Plaintiff CITY incorporates by reference paragraphs 1 through 41 above, as
28 though fully set forth in this part of the Complaint.

1 43. Plaintiff CITY brings this count under Chapters 16-B and 16-C of the San
2 Francisco Building Code, known as the UMB Ordinance, and sections 102-103 of the San
3 Francisco Building Code.

4 44. Defendant is now, and for a considerable period of time before now and
5 throughout its almost 10 years of owning the Property, maintaining the Buildings in such a
6 manner as to constitute a continuing public nuisance. The condition constituting such public
7 nuisance is the failure to seismically upgrade the Buildings as required by the UMB Ordinance,
8 codified in Chapters 16-B, and 16-C of the San Francisco Building Code. Under San Francisco
9 Building Code section 102, all buildings dangerous to human life, safety or health of any
10 occupants, occupants of adjacent properties or the public by reason of inadequate maintenance,
11 or use in violation of law or ordinance are unsafe and as such constitute a nuisance.

12 45. Throughout its almost 10 years of ownership of the Property, Defendant has had
13 notice and knowledge that the Buildings constitute a public nuisance as described in this
14 Complaint.

15 46. Plaintiff has no adequate remedy at law in that damages are insufficient to protect
16 the public from the present danger and harm caused by the conditions described in this
17 Complaint.

18 47. Unless such nuisance is abated, the residents and citizens of the City and County
19 of San Francisco will suffer irreparable injury and damage, in that such condition will continue
20 to be dangerous to human life, safety or health of the occupants, and the occupants of adjacent
21 properties, employees, passers-by, and the public.

22 48. By maintaining the Buildings in violation of the San Francisco Building Code,
23 Defendant has violated, disobeyed, omitted, neglected and refused to comply with the San
24 Francisco Building Code and is subject to civil penalties up to \$500 for each day that each
25 violation is committed or permitted to continue as set forth in Building Code section 103.

COUNT TWO
GENERAL PUBLIC NUISANCE

(Civil Code Sections 3479 and 3480)

1
2
3 49. Plaintiff CITY incorporates by reference paragraphs 1 through 48 above, as
4 though fully set forth in this part of the Complaint.

5 50. By failing to seismically retrofit the Buildings at the Property, Defendant is now,
6 and for a considerable period of time before now and throughout its almost 10 years of owning
7 the Property has been, causing and maintaining a continuing public nuisance within the meaning
8 of California Civil Code sections 3479 and 3480. The manner in which Defendant maintains the
9 Buildings is injurious to the health and safety of the public, is dangerous to human life so as to
10 interfere with the comfortable enjoyment of life or property of the neighborhood.

11 51. Throughout its almost 10 years of owing the Property, Defendant has had notice
12 and knowledge that the Buildings at the Property constituted a public nuisance as described in
13 this Complaint.

14 52. Plaintiff has no adequate remedy at law in that damages are insufficient to protect
15 the public from the present danger and harm caused by the conditions described in this
16 Complaint.

17 53. Unless such nuisance is abated, the surrounding community and neighborhood,
18 and the residents and citizens of the City and County of San Francisco, will suffer irreparable
19 injury and damage, in that said conditions will continue to be injurious to the enjoyment and the
20 free use of the life and property of said citizens and residents of the City and County of
21 San Francisco.

1 60. By failing to comply with the administrative orders of Building Inspection,
2 Defendant is subject to civil penalties up to \$500 for each day of their non-compliance as set
3 forth in Building Code section 103.

4
5 **THIRD CAUSE OF ACTION FOR UNLAWFUL AND UNFAIR**
6 **BUSINESS PRACTICES BROUGHT BY PLAINTIFF THE PEOPLE OF THE**
7 **STATE OF CALIFORNIA AGAINST DEFENDANTS**

8 (Business and Professions Code Sections 17200 - 17210)

9 61. Plaintiff PEOPLE incorporates by reference paragraphs 1 through 60 as though
10 fully set forth in this part of the Complaint.

11 62. Plaintiff brings this cause of action in the name of the People of the State of
12 California under Business and Professions Code sections 17200-17210 to protect the public as
13 consumers and competitors from unlawful and unfair practices committed by Defendant in the
14 commercial use and operation of the Property as a public nuisance and in violation of the law
15 within the City and County of San Francisco, State of California.

16 63. Defendant transacts business within the City and County of San Francisco, State
17 of California. The violations of law described in this Complaint have been and are being carried
18 out by Defendant wholly or in part within the City and County of San Francisco.

19 64. Defendant's actions violate the laws and public policies the CITY and the State of
20 California and are inimical to the rights and interest of the general public. Unless enjoined and
21 restrained by an order of this court, Defendant will continue to engage in the unlawful and unfair
22 acts and courses of conduct described in this Complaint.

23 65. Through the conduct described above, Defendant has engaged in the following
24 unlawful and unfair business practices prohibited by Business and Professions Code sections
25 17200 – 17210:

- 26 A. violating the San Francisco Building Code;
27 B. creating and maintaining a public nuisance at the Buildings and the Property; and
28 C. failing to comply with Building Inspection Orders of Abatement.

1 2. Declare the Buildings a public nuisance and a *per se* public nuisance in violation
2 of the San Francisco Building Code and California Civil Code sections 3479 and 3480;

3 3. Order Defendant to abate the public nuisance and *per se* public nuisance at the
4 Buildings;

5 4. Order Defendant to cause each of the Buildings to conform to law;

6 5. Order that any seismic retrofit be done in such a way as to preserve the historic
7 character and the historic significance of the Buildings;

8 6. Order that should Defendant seek under the UMB Ordinance to demolish all or
9 some of the Buildings in lieu of seismically retrofitting them, that Defendant be required to
10 comply with all municipal laws and obtain the requisite approvals from all affected CITY
11 departments including, but not limited to, the submission of a project reuse plan that preserves
12 the historic character and significance of the Buildings, subject to all required environmental
13 review under CEQA and public review;

14 7. Order Defendant to vacate and secure each of the Buildings and enjoin Defendant
15 from operating, occupying, or otherwise using the Buildings – or from allowing any portion of
16 the Buildings to be occupied or used – and to protect employees, visitors and members of the
17 public from exterior falling hazards relating to the Buildings, while the conditions described in
18 this Complaint, or any of them, exist and until the all of the Buildings have been repaired and
19 restored to conform to law;

20 8. Order the appointment of a receiver to manage the Buildings and abate the
21 violations;

22 9. Grant Plaintiffs a lien upon the Property in the amount Plaintiffs expended under
23 authority and a judgment in that amount against Defendant, its successors and assigns;

24 10. Order Defendant to pay all abatement costs under Building Code section 102A.14
25 and 102A.17;

26 11. Order Defendant to pay civil penalties of \$500 for each day any violation of the
27 San Francisco Building Code was committed or permitted to continue, from at least February 15,
28

1 2003, continuing daily to the present, and including each day the violations are committed or
2 permitted to continue after the filing of this Complaint, under San Francisco Building Code
3 section 103A;

4 12. Declare that Defendant has engaged in unfair and unlawful business acts and
5 practices in violation of California Business and Professions Code sections 17200-17210;

6 13. Enjoin Defendant, including its successors and assigns, by themselves or through
7 their agents, officers, managers, representatives, employees, tenants, and anyone acting on their
8 behalf, from operating, conducting, using, occupying, or in any way permitting the use of the
9 Buildings in violation of the California Civil Code sections 3479 and 3480, the San Francisco
10 Building Code, or otherwise engaging in the unfair and unlawful business practices described in
11 this Complaint, under California Business and Professions Code sections 17203-17204;

12 14. Enjoin Defendant from spending, transferring, encumbering, or removing from
13 California any money received from the Property, or in payment for the unfair and unlawful acts
14 alleged in the Complaint;

15 15. Order Defendant to disgorge all profits obtained through its unfair and unlawful
16 business practices as described in this Complaint, under Business and Professions Code section
17 17203;

18 16. Order Defendant to pay a civil penalty of \$2,500 for each act of unfair and
19 unlawful competition, from at least February 15, 2003, continuing daily to the present, and
20 including each day the violations are committed or permitted to continue after the filing of this
21 Complaint, under California Business and Professions Code section 17206;

22 17. Award Plaintiffs recovery of their costs incurred herein, under to California Code
23 of Civil Procedure section 1032;

24 18. Authorize Plaintiffs to record an Abstract of Judgment that constitutes a prior lien
25 over any lien that any Defendant in this case may hold on the Property; and

26 19. Grant such other and further relief as this Court should find just and proper,
27 including, but not limited to, attorneys' fees and costs as allowed by statute.
28

1 Dated: April 27, 2009

2 DENNIS J. HERRERA
3 City Attorney
4 ALEX G. TSE
5 Chief Attorney, Neighborhood and
6 Resident Safety Division
7 YVONNE R. MERÉ
8 Deputy City Attorneys

9 By: _____
10 YVONNE R. MERÉ
11 Deputy City Attorney

12 Attorney for Plaintiffs
13 CITY AND COUNTY OF SAN FRANCISCO
14 and PEOPLE OF THE STATE OF CALIFORNIA
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INDEX TO EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Property Description of 1201, 1201 A, 1201 B and 1301 Illinois Street
B	Unreinforced Masonry Building Inventory Form dated March 15, 1994 – Compressor Building
C	Unreinforced Masonry Building Inventory Form dated March 15, 1994 – Meter Building
D	Unreinforced Masonry Building Inventory Form dated March 15, 1994 – Station A Building
E	Unreinforced Masonry Building Inventory Form dated March 15, 1994 – Sugar House Building
F	Unreinforced Masonry Building Inventory Form dated March 15, 1994 – Gate House Building
G	Department of Public Works, Bureau of Building Inspection, Notice – Seismic Building Hazard dated December 7, 1994 – Compressor Building
H	Department of Public Works, Bureau of Building Inspection, Notice – Seismic Building Hazard dated December 7, 1994 – Meter Building
I	Department of Public Works, Bureau of Building Inspection, Notice – Seismic Building Hazard dated December 7, 1994 – Station A Building
J	Department of Public Works, Bureau of Building Inspection, Notice – Seismic Building Hazard dated December 7, 1994 – Gate House Building
K	Department of Public Works, Bureau of Building Inspection, Notice – Seismic Building Hazard dated December 7, 1994 – Sugar House Building
L	Department of Building Inspection Notice of Director's Hearing dated May 7, 2003 and Declaration of Service
M	Department of Building Inspection Order of Abatement dated June 13, 2003 and Declaration of Service
N	Recorded Copy of June 13, 2003 Order of Abatement
O	Department of Building Inspection Notice of Director's Hearing dated April 6, 2005 and Declaration of Service
P	Department of Building Inspection Order of Abatement dated April 29, 2005 and Declaration of Service
Q	Recorded Copy of April 29, 2005 Order of Abatement

1 **EXHIBIT A**

2 **PROPERTY DESCRIPTION**

3
4 **ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN**
5 **FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:**

6 **PARCEL A:**

7 BEGINNING at a point on the Northerly line of 23rd Street, distant thereon
8 North 86° 49' 44" East 314.30 feet from the Easterly line of Illinois Street;
9 thence North 03° 10' 16" West 73.17 feet; thence North 32° 46' 18" West 72.56
10 feet; thence North 03° 10' 16" West 149.59 feet; thence South 86° 49' 44" West
11 15.75 feet; thence North 03° 41' 19" West 147.16 feet; thence North 86°49'44"
12 East 18.62 feet; thence North 03°10'16" West 1.30 feet; thence North 87° 24'
13 17" East 58.13 feet; thence North 03° 10' 16" West 121.47 feet; thence North
14 86° 49' 44" East 35.24 feet; thence South 71° 40' 08" East 47.67 feet; thence
15 North 70° 10' 11" East 65.01 feet to the Westerly line of Georgia Street as said
16 Street existed prior to the vacation thereof per Resolution 30892 dated May 13,
17 1929, by the Board of Supervisors of the City and County of San Francisco, a
18 municipal corporation; thence along said Westerly line of former Georgia Street
19 South 03° 10' 16" East 90.17 feet to the Northerly line of Humboldt Street as
20 said street existed prior to the vacation thereof per Ordinance No. 116-67, dated
21 May 1, 1967, by the. Board of Supervisors of the City and County of San
22 Francisco, a municipal corporation; thence along the said Northerly line of
23 former Humboldt Street North 86° 49' 44" East 80.00 feet to the Easterly line of
24 said former Georgia Street; thence along said Easterly line of former Georgia
25 Street North 03° 10' 16" West 246.00 feet to a line that is perpendicularly
26 distant 154 feet Southerly from the Southerly line of former 22nd Street, as said
27 street existed prior to the vacation thereof per Resolution No. 1376 dated
28 October 15, 1940, filed in Book 6A, Page 136; thence along said line North 86°
49' 44" East 1040.00 feet to the Westerly line of Waterfront Street; thence along
said line of Waterfront Street South 03° 10' 16" East 279 feet to a line that is
perpendicularly distant 433 feet Southerly from the Southerly line of said
former 22nd Street; thence along said line South 86° 49' 44" West 840 feet to
the Westerly line of former Louisiana Street, as said street existed prior to the
vacation thereof per Resolution 2111 dated May 8, 1923, by the Board of
Supervisors of the City and County of San Francisco, a municipal corporation;
thence along said line of former Louisiana Street South 03° 10' 16" East
433.175 feet to the Northerly line of 23rd Street; thence along said line of 23rd
Street South 86° 49' 44" West 445.70 feet to the point of beginning.

EXCEPTING THEREFROM the following described parcel:

COMMENCING at the point of intersection of the Northerly line of 23rd Street
with the Easterly line of Illinois Street; thence along said line of 23rd Street
North 86°49'44" East 480.00 feet to the Westerly line of Georgia Street as said
street existed prior to the vacation thereof per resolution 21260 Dated June 22,
1923, by the Board of Supervisors of the City and County of San Francisco, a
municipal corporation; thence along said Westerly line of former Georgia Street
433 feet to the TRUE POINT OF BEGINNING; thence from said point of
beginning Northerly along said Westerly line of former Georgia Street 0.175
feet to the Southerly line of Humboldt Street as said street existed prior to the
vacation thereof per ordinance No. 116-67, dated May 1, 1967, by the Board of

Supervisors of the City and county of San Francisco, a municipal corporation; thence Easterly along said Southerly line of former Humboldt Street 80 feet to the Easterly line of said former Georgia Street; thence Southerly along said Easterly line of former Georgia Street 0.175 feet Thence at a right angle Westerly 80 feet to the point of beginning.

BEING a portion of Potrero Nuevo Blocks No. 443, 444, 463, 478, 489, 504, all of Potrero Nuevo Block No. 464 and portions of Michigan Street, Georgia Street, Louisiana Street, Maryland Street, Delaware Street and Humboldt Street as said streets existed prior to the vacation thereof.

Assessors Parcel No.: Lot 6, Block 4175 (formerly a portion of Lot 3)

PARCEL B:

BEGINNING at the intersection of the Northerly line of 23rd Street with the Westerly line of Louisiana Street, now closed; and running thence Northerly along the Westerly line of Louisiana Street, 433 feet to the center line of Humboldt Street, now closed; thence at right angles Easterly, along the center line of Humboldt Street, 840 feet to the Westerly line of Massachusetts (Waterfront) Street, now closed; thence at right angles Southerly, along the Westerly line of Massachusetts (Waterfront) Street, 499 feet to the Southerly line of 23rd Street, now closed; thence at right angles Westerly, along the Southerly line of 23rd Street, 204.92 feet to the Easterly line of the Parcel of land described and designated Parcel 2 in the Deed from Spreckels Realization Company to Pacific Gas and Electric Company, dated December 23, 1949 and recorded in the Office of the Recorder of the City and County of San Francisco, State of California, in Book 5341 of Official Records, at page 295; thence at right angles Northerly, along the Easterly line of said Parcel of land designated Parcel 2, 25.67 feet to the Northeast corner of said Parcel of land designated Parcel 2; thence at right angles Westerly, along the Northerly line of said Parcel of land designated Parcel 2 and the Northerly line of the Parcel of land described and designated Parcel 1 in said Deed, 180.08 feet to the Northwest corner of said Parcel of land designated Parcel 1; thence at right angles Southerly, along the Westerly line of said Parcel of land designated Parcel 1, 22.34 feet; thence at right angles Westerly, parallel with the Southerly line of 23rd Street, 455 feet to the Westerly line, extended Southerly, of Louisiana Street, now closed; thence at right angles Northerly, along the Westerly line of Louisiana Street, 62.67 feet, more or less, to the point of beginning.

BEING all of Potrero Nuevo Blocks, 477, 490 and 503, and portions of 23rd Street; Humboldt Street, Louisiana Street, Maryland Street and Delaware Street, as said Streets existed prior to the vacation thereof.

Assessors Parcel No.: Lot 6, Block 4232

PARCEL C:

BEGINNING at the point formed by the intersection of the Southerly line of 23rd Street, now closed, with the Westerly line of Delaware Street, now closed; and running thence Westerly and along the Southerly line of said 23rd Street 143 feet; thence at a right angle Southerly 178 feet; thence at a right angle Easterly 143 feet to the Westerly line of said Delaware Street; and thence at a right angle Northerly and along the Westerly line of said Delaware Street, 178 feet to the point of beginning.

BEING a portion of Potrero Nuevo Block No. 491

EXCEPTING THEREFROM, all that portion described as follows:

BEGINNING at a point which is on the Westerly line of closed Delaware Street and 30 feet Southerly along the Westerly line of said Delaware Street. from the intersection of the Westerly line of said Delaware Street, with the Southerly line of 23rd Street, now closed; running thence Westerly, parallel to and 30 feet Southerly from the Southerly line of said 23rd Street. a distance of 105 feet to a point; thence at a right angle Northerly for a distance of 30 feet to the Southerly line of said 23rd Street; thence at a right angle Westerly, along the Southerly line of said 23rd Street, for a distance of 38 feet; thence at a right angle Southerly 178 feet; thence at a right angle Easterly 143 feet to the Westerly line of said Delaware Street, now closed; and thence at a right angle Northerly and along the Westerly line of said Delaware Street, 148 feet to the point of beginning.

ALSO EXCEPTING THEREFROM, all that portion described as follows:

BEGINNING at a point in the Westerly boundary line of Delaware Street, now closed, distant thereon 21.83 feet Southerly from the former Southerly boundary line of 23rd Street, now closed; and running thence Southerly along the Westerly boundary line of said Delaware Street, 8.17 feet; thence at a right angle Westerly 105.00 feet; thence at a right angle Northerly 8.17 feet; thence at a right angle Easterly 105.00 feet, more or less, to the point of beginning.

Assessor's Parcel No: a portion of Lot 1, Block 4232

PARCEL D:

BEGINNING at a point in the former Southerly boundary line of 23rd Street, now closed, distant thereon 19.92 feet Westerly from the Westerly boundary line of Delaware Street, now closed; and running thence Westerly along the Southerly boundary line of said 23rd Street 85.08 feet; thence at a right angle Northerly 25.67 feet; thence at a right angle Easterly 85.08 feet; thence at a right angle Southerly 25.67 feet, more or less, to the point of beginning.

BEING a portion of Potrero Nuevo Block No. 491

Assessor's Parcel No: a portion of Lot 1, Block 4232

PARCEL E:

BEGINNING at a point marking the intersection of the Southerly boundary line of 23rd Street, now closed, with the Westerly Boundary line of Delaware Street, now closed; and running thence Southerly along the Westerly boundary line of said Delaware Street, 21.83 feet; thence at a right angle Easterly 75.08 feet; thence at a right angle Northerly 47.50 feet; thence at a right angle Westerly 95.00 feet; thence at a right angle Southerly 25.67 feet to a point in the Southerly boundary line of said 23rd Street; thence Easterly, along the Southerly boundary line of said 23rd Street, 19.92 feet, more or less, to the point of beginning.

BEING a portion of 23rd Street, as said street existed prior to the closure thereof.

Assessor's Parcel No: a portion of Lot 1, Block 4232

PARCEL F:

BEGINNING at a point on the Northerly line of 24th Street, which is distant 796 feet and 11-3/4 inches Easterly along said Northerly line of 24th Street from the Easterly line of Illinois Street; running thence at right angles Northerly 187 feet and 8-1/2 inches; thence Easterly, in a straight line, 603 feet and 1/4 of an inch, more or less, to a point on the Easterly line of Delaware Street, which point is perpendicularly distant 187 feet and 5 inches Northerly from said Northerly line of 24th Street; thence Easterly, parallel with said Northerly line of 24th Street, 200 feet to the Westerly line of Massachusetts Street, or Waterfront Street, now closed; thence at a right angle Southerly, along said line of Massachusetts Street, 187 feet and 5 inches to the Northerly line of 24th Street; thence at a right angle Westerly, along said line of 24th Street, 803.02 feet to the point of beginning.

EXCEPTING THEREFROM those portions of Delaware Street, Maryland Street and Louisiana Street contained therein.

BEING a portion of Potrero Nuevo Blocks Nos. 476, 491 and 502
Assessor's Parcel Nos: Lots 7, 8 and 9, Block 4232

PARCEL G:

BEGINNING at the point of intersection of the Southerly line of 24th Street, as widened, with the Westerly line of Delaware Street; running thence Southerly, along said line of Delaware Street, 43.744 feet; thence at a right angle Westerly 200 feet to the Easterly line of Maryland Street; thence at a right angle Northerly, along said line of Maryland Street, 43.744 feet to the Southerly line of 24th Street, as widened; thence at a right angle Easterly, along said line of 24th Street, 200 feet to the point of beginning.

BEING a portion of Potrero Nuevo Block No. 492
Assessor's Parcel No: Lot 1, Block 4240

PARCEL H:

BEGINNING at the point of intersection the Southerly line of 24th Street, as widened, with the Westerly line of Massachusetts Street; running thence Southerly along said line of Massachusetts Street 43.744 feet, thence at a right angle Westerly 200 feet to the Easterly line of Delaware Street; thence at a right angle Northerly, along said line of Delaware Street, 43.744 feet to the Southerly line of 24th Street, as widened, thence at a right angle Easterly, along said line of 24th Street, 200 feet to the point of beginning.

BEING a portion of Potrero Nuevo Block No. 501
Assessor's Parcel No: Lot 1, Block 4239

PARCEL I:

BEGINNING at the intersection of the center line of Humboldt Street extended Easterly with the Westerly boundary line of Waterfront Street and running thence North 4° 20' West, along the Westerly Boundary line of Waterfront Street, 279.17 feet, to the Southerly line of the lands of the U.S. Navy; thence North 85° 40' East, along the last mentioned boundary line, 1.00 foot; thence South 4° 20' East 279.17 feet to the Easterly extension of the center line of

1 Humboldt Street; thence South 85° 40' West, along the center line of Humboldt
2 Street extended Easterly, 1.00 foot, more or less, to the point of beginning.

3 Assessor's Parcel No: a portion of Lot 2, Block 4175

4 **PARCEL J:**

5 BEGINNING at a point in the center line of Humboldt Street extended Easterly
6 distant thereon North 85° 40' East 1.00 foot from the intersection of the Easterly
7 extension of Humboldt Street with the Westerly boundary line of Waterfront
8 Street and running thence North 85° 40' East, along said Easterly extension of
9 Humboldt Street. 41.67 feet; thence North 4° 20' West 4.38 feet; thence North
10 84°32' East 19.84 feet; thence North 5° 28' West 9.67 feet; thence North 87° 36'
11 10" West 32.76 feet; thence North 50° 02' 20" East 19.19 feet; thence North 85°
12 40' East 4.00 feet; thence North 4° 20' West, parallel with the Westerly
13 boundary line of Waterfront Street 135.45 feet; thence South 86° 59' 50" West
14 24.83 feet; thence North 4° 20' West 113.69 feet to the Southerly boundary of
15 lands of the U.S. Navy; thence South 85° 40' West, along the last mentioned
16 boundary line, 23.57 feet to a point North 85° 40' East 1.00 foot distant from the
17 Westerly boundary line of Waterfront Street; thence South 4° 20' East, parallel
18 with the Westerly boundary line of Waterfront Street, 279.17 feet, more or less,
19 to the point of beginning.

20 Assessors Parcel No.: a portion of Lot 2, Block 4175

21 APN: Lot 001, Block 4232, Lot 007, Block 4232, Lot 008, Block 4232, Lot 009,
22 Block 4232, Lot 001, Block 4240, Lot 001, Block 4239, Lot 002, Block 4175
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