

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT AND RELEASE (“Settlement Agreement”), relating to claims under section 3304 of the San Francisco Police Code, section 17200 of the California Business and Professions Code (the “UCL”), and the terms of a 2011 stipulated injunction enjoining Defendant Lem-Ray Properties I DE LLC from operating its properties in violation of the UCL or other state or local laws, is between Plaintiffs, CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation, and the PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City Attorney for the City and County of San Francisco, and Defendants, CHUCK M. POST, individually and d/b/a APARTMENTSINSF.COM and LEM-RAY PROPERTIES I DE, LLC.

Findings and Stipulated Facts

Plaintiff City and County of San Francisco is a municipal corporation organized and existing under and by virtue of the laws of the State of California, and is a city and county.

Plaintiff the People of the State of California, by and through San Francisco City Attorney Dennis J. Herrera, has authority to pursue claims for unfair and unlawful business practices pursuant to the UCL, California Business and Professions Code Section 17200 *et seq.*

Defendant Chuck Post d/b/a ApartmentsInSf.com (“Chuck Post”) is a real estate broker licensed by the California Department of Real Estate (License # 01421132), with his principal office in San Francisco, California. At times relevant to this Settlement Agreement, he was and is the agent of Defendant Lem-Ray.

Defendant Lem-Ray Properties I DE, LLC (“Lem-Ray”) is a Delaware Limited Liability Company that owns several apartment buildings in San Francisco, including the buildings commonly known as 81 Ninth Street and 935 Geary Street (the “Properties”).

San Francisco (the “City”) has one of the tightest and most expensive rental housing markets in the country. Over the past few decades, the City has become increasingly unaffordable and inaccessible for many long-time residents and low-wage working families. The City has enacted a number of measures aimed at making it easier for low-income residents to find and keep housing. Section 3304 of the San Francisco Police Code (“section 3304”) bars landlords and their agents from refusing to rent to recipients of government-sponsored rental

assistance—like Section 8 vouchers—simply because they intend to utilize such vouchers. Section 3304 also prohibits posting advertisements stating such a policy. During the four-year period preceding October 21, 2015, Defendants refused to accept Section 8 vouchers as rental payment at the Properties, and posted advertisements stating such a policy for rental units at the Properties.

On October 21, 2015, Plaintiffs filed a complaint in San Francisco Superior Court with three main causes of action: (1) unfair and unlawful business practices under the UCL, (2) violations of section 3304 of the Police Code, and (3) a claim against Defendant Lem-Ray Properties for violating the terms of a 2011 stipulated injunction enjoining Lem-Ray from operating its properties in violation of the UCL or other state or local laws.

On February 24, 2016, Defendants filed a demurrer, arguing that Plaintiffs' claims fail because section 3304 of the Police Code is preempted by the Fair Housing and Employment Act. The Court overruled the demurrer on March 22, 2016, rejecting Defendants' preemption defense. Thereafter, Plaintiffs filed a motion for a preliminary injunction.

On May 20, 2016, the Court granted Plaintiffs' motion and entered a preliminary injunction, finding that Plaintiffs would likely prevail on the merits of their claims, that the injunction is necessary to prevent irreparable harm resulting from Defendants' violation of the law, and enjoining Defendants from "interrupting, terminating, or failing or refusing to initiate or conduct any transaction in real property, including but not limited to the rental thereof, wholly or in part because an individual intends to utilize a Section 8 voucher." On July 20, 2016, Defendants appealed the order granting the preliminary injunction (the "PI Order").

On September 28, 2016, the Superior Court stayed the trial proceedings pending resolution of Defendants' appeal from the PI Order. The Court of Appeal held that "[t]he challenged provision of Section 3304 is not preempted by implication or by contradiction," and that "[i]t remains fully in force." Defendants filed a petition for review with the California Supreme Court, which was denied on July 11, 2018. The Court of Appeal issued the remittitur on July 19, 2018.

The parties extended the trial date to October 21, 2019 to accommodate their first attempt at mediation on January 18, 2019. That mediation did not result in settlement. On February 14, 2019, Lem-Ray filed a Motion for Summary Adjudication, arguing that the 2011 stipulated

injunction did not allow Plaintiffs to enforce the terms of the injunction in a separate civil action and instead required Plaintiffs to file a motion in the original case to pursue any alleged violations. On May 29, 2019, the Court, Superior Court Judge Charles F. Haines, denied Defendants' motion, allowing Plaintiffs' cause of action based on the stipulated injunction to proceed.

Plaintiffs and Defendants ("the Parties") returned to mediation on July 23, 2019. The Parties now desire to avoid the expense, burden, and delay of further litigation and to resolve their dispute through settlement.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. In exchange for the promises by the Parties in this Settlement Agreement, Defendants agree to make payments totaling \$245,000 (the "Settlement Amount"), constituting penalties under the UCL, to the San Francisco City Attorney's Office according to the terms specified herein.
 - a. Down Payment of \$25,000 Due Immediately. Defendants shall make an immediate down payment of \$25,000 payable to the Office of the City Attorney for the City and County of San Francisco on the date Defendants execute this Settlement Agreement, and no later than five days after Defendants execute this agreement. Defendants shall provide a check or money order in the amount of \$25,000, made payable to the Office of the City Attorney for the City and County of San Francisco, 1390 Market Street, 7th Floor, San Francisco, CA 94102, in hard copy to Molly Alarcon, Deputy City Attorney, counsel for Plaintiffs, or shall mail such check or money order overnight to Molly Alarcon, Deputy City Attorney, San Francisco City Attorney's Office, 1390 Market Street, 7th Floor, San Francisco, CA 94102.
 - b. Monthly Payments of \$2,500 for Three Years. Beginning on October 1, 2019 and on the first of each month for every one of the subsequent thirty-

five months, Defendants shall ensure that Plaintiffs receive a check or money order in the amount of \$2,500, payable to the Office of the City Attorney for the City and County of San Francisco, and delivered to Molly Alarcon, Deputy City Attorney, San Francisco City Attorney's Office, 1390 Market Street, 7th Floor, San Francisco, CA 94102, or at such other address or to such other recipient as Plaintiffs may later specify, in writing, to Defendants. For the avoidance of ambiguity, under this subsection, Defendants shall make 36 monthly payments of \$2,500, totaling \$90,000, the first of which must be received by Plaintiffs on or before October 1, 2019, and each of the remaining of which must be received on or before the first of every month for thirty-five subsequent months. At the same time as Defendants cause each month's payment to be mailed or delivered, Defendants shall confirm such mailing or delivery via email to counsel for Plaintiffs, molly.alarcon@sfcityatty.org, or at another email address as Plaintiffs may later specify.

c. Final Balloon Payment Due in 37th Month. No later than October 1, 2022, Defendants shall pay the remaining balance of \$130,000 in a single check or money order payable to the Office of the City Attorney for the City and County of San Francisco, delivered by hand or via courier to Molly Alarcon, Deputy City Attorney, at 1390 Market Street, 7th Floor, San Francisco, CA 94102 or at such address or to such other recipient as Plaintiffs may later specify, in writing, to Defendants.

2. Notice and Cure Period. In the event Defendants fail to comply with the payment terms of this Settlement Agreement—for example, by failing to make a timely payment—Defendants shall have a notice and cure period before Defendants are deemed to be in breach of this Settlement Agreement. The notice and cure period shall proceed as follows: Plaintiffs shall notify Defendants via an email to counsel

for Defendants, specifying the nature of Defendants' failure to comply and providing Defendants with 30 days from the date of such notice to cure the problem. If the failure to comply specified in the email notice is cured within the 30-day period following the notice, Defendants will not be deemed to be in breach of this Settlement Agreement with respect to that notice. For purposes of a late payment, Defendants must mail or deliver the overdue payment and confirm its mailing or delivery to Plaintiffs via email within the 30-day cure period. If Defendants fail to cure the noticed violation within the 30-day cure period, Defendants shall be in breach of this Settlement Agreement.

3. Enforceability of Amount Due as Judgment After Breach. Upon breach (after expiration of the cure period), the remaining Settlement Amount shall become immediately due, collectable, and enforceable as a judgment against Defendants by Plaintiffs. Specifically, the Parties agree that upon breach, Plaintiffs have the right to file in San Francisco Superior Court the documents in **Exhibit A** attached hereto: a Statement Confessing Judgment, a supporting Declaration of Edward C. Singer, Jr., and a [Proposed] Judgment Pursuant to Confession. Defendants agree they are jointly and severally bound by the Statement Confessing Judgment and the Judgment Pursuant to Confession. Plaintiffs agree to credit any payments toward the Settlement Amount that Defendants made prior to the breach against any recovery sought by Plaintiffs. Interest shall accrue on the judgment at the rate of ten percent per year, compounded monthly, commencing from the date of entry of judgment. Plaintiffs shall, pursuant to a noticed motion, recover their costs of collection and any accrued interest, in addition to the judgment amount, in the event of breach, because the Parties agree that such costs are reasonable and foreseeable damages stemming directly from Defendants' breach.
4. Stipulated Injunction. The Parties agree to entry of the Stipulated Injunction attached hereto as **Exhibit B** and incorporated herein.

5. Duty to Notify – Changes to Properties, Corporation, Bankruptcy. Defendants shall notify Plaintiffs in the event of any encumbrance placed on the Properties after Defendants execute this Settlement Agreement. Defendants shall notify Plaintiffs in the event of a transfer of any interest in the Properties after Defendants execute this Settlement Agreement. Defendants shall notify Plaintiffs of any sale, transfer of interest, or change of corporate status (such as dissolution) regarding Defendant Lem-Ray. In the event one or more Defendants intends to file for bankruptcy, Defendants shall notify Plaintiffs before such filing. These duties to notify shall extend until Defendants pay the Settlement Amount in full. Notice shall be provided to Molly Alarcon, Deputy City Attorney, San Francisco City Attorney’s Office, via email at molly.alarcon@sfcityatty.org and via mail at 1390 Market Street, 7th Floor, San Francisco, CA 94102, or to such other designee as Plaintiffs may later specify.
6. Duty to Notify - Contact Information for Counsel. Defendants shall notify Plaintiffs if one of more Defendants retain different counsel with respect to this Settlement Agreement or if counsel for Defendants changes email address, phone number, or business address. This duty to notify shall extend until Defendants pay the Settlement Amount in full. Notice shall be provided to Molly Alarcon, Deputy City Attorney, San Francisco City Attorney’s Office, via email at molly.alarcon@sfcityatty.org and via mail at 1390 Market Street, 7th Floor, San Francisco, CA 94102, or to such other designee as Plaintiffs may later specify.
7. Additional Terms. The Parties also agree that:
 - a. In exchange for the full payment of the Settlement Amount by Defendants according to the terms specified in this Settlement Agreement, Plaintiffs agree to release Defendants of all claims asserted by Plaintiffs against Defendants in the complaint filed in San Francisco Superior Court on October 21, 2015 for the four-year period from October 21, 2011 through

October 21, 2015 (the "Claims"). Defendants likewise agree to release Plaintiffs from any causes of action, claims, counter-claims, and claims for attorney's fees and costs that Defendants could have brought against Plaintiffs related to the Claims.

- b. Defendants are jointly and severally liable for the Settlement Amount.
- c. This Settlement Agreement may be modified only through a writing signed by the Parties.
- d. This Settlement Agreement shall be governed by the laws of the state of California.
- e. The Parties shall bear their own costs with respect to the creation of this Settlement Agreement.
- f. The Parties have fully read the contents of this Settlement Agreement, have been advised of their rights to consult counsel of their choice regarding the meaning and effect of this Settlement Agreement, and have full, complete, and total comprehension of the provisions contained in this document and are in full agreement with each and every one of its terms.
- g. Any ambiguities are to be resolved in the same manner as would have been the case if this instrument had been jointly conceived and drafted. Headings to paragraphs reflect the Parties' intent.
- h. If any provision is found to be unenforceable by a court, then the remaining provisions shall remain valid and enforceable.
- i. The San Francisco Superior Court shall have jurisdiction to enforce this agreement and resolve any disputes arising out of this Settlement Agreement, and shall be the proper venue.
- j. Nothing in this Settlement Agreement prevents Plaintiffs from enforcing this Settlement Agreement through any appropriate enforcement actions, including filing a motion to enforce or a separate lawsuit, and in doing so,

Plaintiffs can collect their reasonable attorneys' fees, costs, and any interest on the unpaid portion of the Settlement Amount, as applicable.

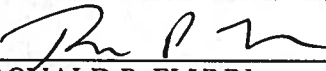
- k. This Settlement Agreement is binding and enforceable on the Parties, the heirs, personal representatives, successors, and assigns of the Parties and inure to the benefit of the Parties and their heirs, successors, and assigns.
- l. In the event Defendant Lem-Ray winds down, ceases operations, or otherwise phases out the Lem-Ray LLC entity, the unpaid portion of the Settlement Amount shall become immediately due and Defendant shall ensure that such amount is paid before such wind down, cessation, or phase-out is final. The same 30-day notice and cure period as described in Paragraph 2 shall apply in the event of the scenario described in this subparagraph.
- m. Each of the Parties to this Settlement Agreement represents and warrants that they have the right and authority to execute this Settlement Agreement.
- n. This Settlement Agreement may be signed in counterparts, each of which shall constitute an original document. A duplicate signature shall have the same force and effect as an original signature.

Executed in San Francisco, California.

For the CITY AND COUNTY OF SAN FRANCISCO and the PEOPLE OF THE STATE OF CALIFORNIA:

Dated: OCT 17, 2019


DENNIS J. HERRERA, City Attorney

By: 
RONALD P. FLYNN
Chief Deputy City Attorney

For CHUCK M. POST, INDIVIDUALLY AND D/B/A APARTMENTSINSF.COM and LEM-RAY PROPERTIES I DE, LLC:

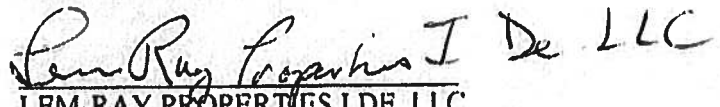
Dated:

9/24/19


CHUCK M. POST

Dated:

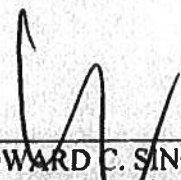
10/10/2019


LEM-RAY PROPERTIES I DE, LLC

Approved as to Form:

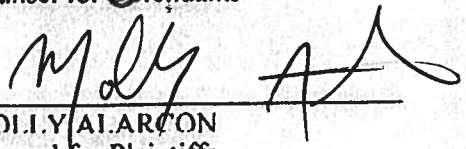
Dated:

10/10/2019


EDWARD C. SINGER, JR.
Counsel for Defendants

Dated:

10/16/2019


MOLLY ALARCON
Counsel for Plaintiffs

For CHUCK M. POST, INDIVIDUALLY AND D/B/A APARTMENTSINSF.COM and LEM-
RAY PROPERTIES I DE, LLC:

Dated:

9/24/19


CHUCK M. POST

Dated:

LEM-RAY PROPERTIES I DE, LLC

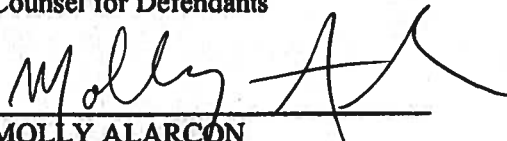
Approved as to Form:

Dated:

EDWARD C. SINGER, JR.
Counsel for Defendants

Dated:

10/16/2019


MOLLY ALARCON
Counsel for Plaintiffs

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief of Complex & Affirmative Litigation
3 BRADLEY A. RUSSI, State Bar #256993
SARA J. EISENBERG, State Bar #269303
4 MOLLY J. ALARCON, State Bar #315244
Deputy City Attorneys
5 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
6 Telephone: (415) 554-3857
Facsimile: (415) 437-4644
7 E-Mail: molly.alarcon@sfcityatty.org

8 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO AND
9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

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

16 Plaintiffs,

17 vs.

18 CHUCK M. POST, individually and d/b/a
19 APARTMENTSINSF.COM; LEM-RAY
PROPERTIES I DE, LLC; and DOE ONE
20 through DOE FIFTY,

21 Defendants.

Case No. CGC-15-548551

Date Action Filed: October 21, 2015

STATEMENT CONFESSING JUDGMENT

22
23 Defendants CHUCK M. POST, individually and d/b/a APARTMENTSINSF.COM (“Post”)
24 and LEM-RAY PROPERTIES I DE, LLC (“Lem-Ray”) hereby confess judgment in the above-entitled
25 cause in favor of Plaintiffs CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation,
26 and the PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City
27 Attorney for the City and County of San Francisco, in the sum of two-hundred forty-five thousand

1 dollars (\$245,000) (the “Settlement Amount”) and authorize entry of judgment against them in that
2 sum, less any amount Defendants have paid Plaintiffs toward this settlement.

3 Defendants confess a debt justly due and arising from the following facts:

4 Plaintiff City and County of San Francisco is a municipal corporation organized and existing
5 under and by virtue of the laws of the State of California, and is a city and county.

6 Plaintiff the People of the State of California, by and through San Francisco City Attorney
7 Dennis J. Herrera, has authority to pursue claims for unfair and unlawful business practices pursuant to
8 California Business and Professions Code Section 17200 *et seq.*

9 Defendant Chuck Post d/b/a ApartmentsInSf.com (“Chuck Post”) is a real estate broker
10 licensed by the California Department of Real Estate (License # 01421132), with his principal office
11 in San Francisco, California. At times relevant to this Settlement Agreement, he was and is the agent
12 of Defendant Lem-Ray.

13 Defendant Lem-Ray Properties I DE, LLC (“Lem-Ray”) is a Delaware Limited Liability
14 Company that owns several apartment buildings in San Francisco, including the buildings commonly
15 known as 81 Ninth Street and 935 Geary Street (the “Properties”).

16 San Francisco (“the City”) has one of the tightest and most expensive rental housing markets in
17 the country. Over the past few decades, the City has become increasingly unaffordable and
18 inaccessible for many long-time residents and low-wage working families. The City has enacted a
19 number of measures aimed at making it easier for low-income residents to find and keep housing.
20 Section 3304 of the San Francisco Police Code (“section 3304”) bars landlords and their agents from
21 refusing to rent to recipients of government-sponsored rental assistance—like Section 8 vouchers—
22 simply because they intend to utilize such vouchers. Section 3304 also prohibits posting
23 advertisements stating such a policy. During the four-year period preceding October 21, 2015,
24 Defendants refused to accept Section 8 vouchers as rental payment at the Properties, and posted
25 advertisements stating such policy for rental units at the Properties.

26 On October 21, 2015, Plaintiffs filed a complaint in San Francisco Superior Court with three
27 main causes of action: (1) unfair and unlawful business practices under the UCL, (2) violations of

1 section 3304 of the Police Code, and (3) a claim against Defendant Lem-Ray Properties for violating
2 the terms of a 2011 stipulated injunction enjoining Lem-Ray from operating its properties in violation
3 of the UCL or other state or local laws.

4 On February 24, 2016, Defendants filed a demurrer, arguing that Plaintiffs' claims fail because
5 section 3304 of the Police Code is preempted by the Fair Housing and Employment Act. The Court
6 overruled the demurrer on March 22, 2016, rejecting Defendants' preemption defense. Thereafter,
7 Plaintiffs filed a motion for a preliminary injunction.

8 On May 20, 2016, the Court granted Plaintiffs' motion and entered a preliminary injunction,
9 finding that Plaintiffs would likely prevail on the merits of their claims, that the injunction is necessary
10 to prevent irreparable harm resulting from Defendants' violation of the law, and enjoining Defendants
11 from "interrupting, terminating, or failing or refusing to initiate or conduct any transaction in real
12 property, including but not limited to the rental thereof, wholly or in part because an individual intends
13 to utilize a Section 8 voucher." On July 20, 2016, Defendants appealed the order granting the
14 preliminary injunction (the "PI Order").

15 On September 28, 2016, the Superior Court stayed the trial proceedings pending resolution of
16 Defendants' appeal from the PI Order. The Court of Appeal held that "[t]he challenged provision of
17 Section 3304 is not preempted by implication or by contradiction," and that "[i]t remains fully in
18 force." Defendants filed a petition for review with the California Supreme Court, which was denied
19 on July 11, 2018. The Court of Appeal issued the remittitur on July 19, 2018.

20 The parties extended the trial date to October 21, 2019 to accommodate their first attempt at
21 mediation on January 18, 2019. That mediation did not result in settlement. On February 14, 2019,
22 Lem-Ray filed a Motion for Summary Adjudication, arguing that the 2011 stipulated injunction did
23 not allow Plaintiffs to enforce the terms of the injunction in a separate civil action and instead required
24 Plaintiffs to file a motion in the original case to pursue any alleged violations. On May 29, 2019, the
25 Court, Superior Court Judge Charles F. Haines, denied Defendants' motion, allowing Plaintiffs' cause
26 of action based on the stipulated injunction to proceed.

1 Plaintiffs and Defendants (“the Parties”) returned to mediation on July 23, 2019. The Parties
2 reached a settlement and memorialized its terms in a Settlement Agreement, a true and correct copy of
3 which is submitted as Exhibit 1.

4 In the Settlement Agreement, Defendants agreed to pay the Settlement Amount of \$245,000 to
5 the City and County of San Francisco as follows:

- 6 • Immediately upon execution of the Settlement Agreement: \$25,000.
- 7 • In 36 monthly installments of \$2,500, commencing on October 1, 2019: \$90,000.
- 8 • On October 1, 2022: \$130,000.

9 The Parties also agreed that after a 30-day notice and cure period, if Defendants breach their
10 obligations under the Settlement Agreement regarding payments toward the Settlement Amount,
11 Plaintiffs shall file this Confession of Judgment in San Francisco Superior Court and record a
12 judgment against Defendants for the entire outstanding amount, and that Defendants shall be bound by
13 this judgment jointly and severally. The Parties also agreed that in the event of such breach, interest
14 would accrue pursuant to the terms of the Settlement Agreement, and that Defendants would be
15 responsible for reimbursing Plaintiffs’ costs of collection.

16 Plaintiffs file this Statement Confessing Judgment because Defendants have failed to comply
17 with the Settlement Agreement terms regarding payments toward the Settlement Amount. Plaintiffs
18 retain their right to retrieve any remaining amount in any other manner under law.

19 The Parties specifically request that the Court enter judgment in accordance with Defendants’
20 confession and the Settlement Agreement.

21 ///

22 ///

23 ///

24 ///

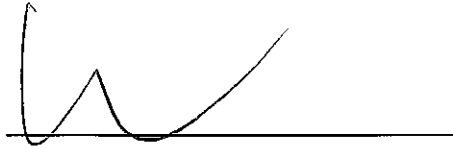
25 ///

26 ///

27 ///

1 Respectfully Submitted,

2
3 Dated: 10/25/2019



4 EDWARD C. SINGER, JR.
5 Attorney for Defendants
6 CHUCK M. POST, individually and d/b/a
APARTMENTSINSF.COM;
LEM-RAY PROPERTIES I DE, LLC

7 Dated:

8
9 DENNIS J. HERRERA
City Attorney
10 YVONNE R. MERÉ
Chief of Complex & Affirmative Litigation
11 BRADLEY A. RUSSI
SARA J. EISENBERG
12 MOLLY J. ALARCON

13 Attorneys for Plaintiffs
14 CITY AND COUNTY OF SAN FRANCISCO, a
Municipal Corporation, and the PEOPLE OF THE
15 STATE OF CALIFORNIA, by and through DENNIS J.
HERRERA, City Attorney for the City and County of
16 San Francisco
17
18
19
20
21
22
23
24
25
26
27
28

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief of Complex & Affirmative Litigation
3 BRADLEY A. RUSSI, State Bar #256993
SARA J. EISENBERG, State Bar #269303
4 MOLLY J. ALARCON, State Bar #315244
Deputy City Attorneys
5 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
6 Telephone: (415) 554-3857
Facsimile: (415) 437-4644
7 E-Mail: molly.alarcon@sfcityatty.org

8 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO AND
9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

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

16 Plaintiffs,

17 vs.

18 CHUCK M. POST, individually and d/b/a
19 APARTMENTSINSF.COM; LEM-RAY
PROPERTIES I DE, LLC; and DOE ONE
20 through DOE FIFTY,

21 Defendants.

Case No. CGC-15-548551

Date Action Filed: October 21, 2015

**DECLARATION OF EDWARD C. SINGER,
JR. IN SUPPORT OF STATEMENT
CONFESSING JUDGMENT**

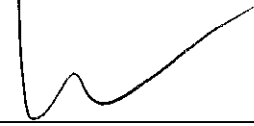
22
23 I, Edward C. Singer, Jr., declare:

24 I am an attorney at law duly admitted to practice before this Court, and the attorney of record
25 herein representing Defendants CHUCK M. POST, individually and d/b/a APARTMENTSINSF.COM
26 (“Post”) and LEM-RAY PROPERTIES I DE, LLC (“Lem-Ray”), the parties confessing judgment in
27 the above entitled case.

1 I have personal knowledge of the matters set forth below and, if called as a witness, could and
2 would testify truthfully thereto.

3 I have examined the Confession of Judgment and the [Proposed] Judgment Pursuant to
4 Confession in this matter. I have advised Defendants with respect to the waiver of rights and defenses
5 under the confession of judgment procedure and the effects and consequences thereof. I have advised
6 Defendants to utilize the confession of judgment procedure.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing is
8 true and correct. Executed this 25th day of October, 2019 at
9 Burlingame, California



11 Edward C. Singer, Jr.

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief of Complex & Affirmative Litigation
3 BRADLEY A. RUSSI, State Bar #256993
SARA J. EISENBERG, State Bar #269303
4 MOLLY J. ALARCON, State Bar #315244
Deputy City Attorneys
5 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
6 Telephone: (415) 554-3857
Facsimile: (415) 437-4644
7 E-Mail: molly.alarcon@sfcityatty.org

8 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO AND
9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

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

16 Plaintiffs,

17 vs.

18 CHUCK M. POST, individually and d/b/a
19 APARTMENTSINSF.COM; LEM-RAY
PROPERTIES I DE, LLC; and DOE ONE
20 through DOE FIFTY,

21 Defendants.

Case No. CGC-15-548551

Date Action Filed: October 21, 2015

**[PROPOSED] JUDGMENT PURSUANT TO
CONFESSION**

22
23 On _____, Plaintiffs CITY AND COUNTY OF
24 SAN FRANCISCO, a Municipal Corporation, and the PEOPLE OF THE STATE OF CALIFORNIA,
25 by and through DENNIS J. HERRERA, City Attorney for the City and County of San Francisco, filed
26 a Statement Confessing Judgment and two supporting declarations, after giving Defendants CHUCK
27 M. POST, individually and d/b/a APARTMENTSINSF.COM (“Post”) and LEM-RAY PROPERTIES

1 IDE, LLC (“Lem-Ray”), more than 30 days’ notice, by email and First Class Mail, that Defendants
2 had defaulted on their obligations under the Settlement Agreement signed by the Parties in this matter.

3 Having reviewed the parties’ submissions and good cause appearing therefor, the Court hereby
4 ORDERS AND ADJUDGES AS FOLLOWS:

5 Pursuant to California Code of Civil Procedure section 1132(b), the Court hereby enters
6 Judgment for Plaintiffs, the CITY AND COUNTY OF SAN FRANCISCO, a Municipal Corporation,
7 and the PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J. HERRERA, City
8 Attorney for the City and County of San Francisco, against Defendants Post and Lem-Ray, and each of
9 them, in the amount of _____.

10 Defendants shall be liable jointly and severally for satisfaction of this Judgment.

11 IT IS SO ORDERED.

12
13
14 Dated:

15 _____
16 JUDGE OF THE SUPERIOR COURT
17
18
19
20
21
22
23
24
25
26
27
28

OCT 18 2019

CLERK OF THE COURT

BY: Barbara H. Kempel
Deputy Clerk

1 DENNIS J. HERRERA, State Bar #139669
City Attorney
2 YVONNE R. MERÉ, State Bar #173594
Chief of Complex & Affirmative Litigation
3 BRADLEY A. RUSSI, State Bar #256993
SARA J. EISENBERG, State Bar #269303
4 MOLLY J. ALARCON, State Bar #315244
Deputy City Attorneys
5 1390 Market Street, 6th Floor
San Francisco, California 94102-5408
6 Telephone: (415) 554-3857
Facsimile: (415) 437-4644
7 E-Mail: molly.alarcon@sfcityatty.org

8 Attorneys for Plaintiffs
CITY AND COUNTY OF SAN FRANCISCO AND
9 PEOPLE OF THE STATE OF CALIFORNIA

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 UNLIMITED JURISDICTION

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

16 Plaintiffs,

17 vs.

18 CHUCK M. POST, individually and d/b/a
19 APARTMENTSINSF.COM; LEM-RAY
PROPERTIES I DE, LLC; and DOE ONE
20 through DOE FIFTY,

21 Defendants.

Case No. CGC-15-548551

Date Action Filed: October 21, 2015

STIPULATED PERMANENT INJUNCTION

22
23 This Stipulated Permanent Injunction ("Injunction") is the result of a negotiated compromise
24 between the Parties and was presented before the above-captioned Court, the Honorable
25 HAROLD KAHN, presiding. Plaintiffs CITY AND COUNTY OF
26 SAN FRANCISCO and PEOPLE OF THE STATE OF CALIFORNIA, by and through DENNIS J.
27 HERRERA, City Attorney for the CITY AND COUNTY OF SAN FRANCISCO ("PLAINTIFFS"),

1 were represented by DENNIS J. HERRERA, City Attorney, appearing through MOLLY ALARCON
2 and BRADLEY RUSSI, Deputy City Attorneys, and YVONNE R. MERÉ, Chief of Complex and
3 Affirmative Litigation. Defendants CHUCK M. POST, INDIVIDUALLY AND D/B/A
4 APARTMENTSINSF.COM and LEM-RAY PROPERTIES I DE, LLC (collectively,
5 "DEFENDANTS") were represented by their attorney, EDWARD C. SINGER, JR.

6 PLAINTIFFS and DEFENDANTS (collectively, "PARTIES") consent to entry of this
7 Injunction as an Order by the Court without a noticed motion, hearing, or trial.

8 DEFENDANTS hereby acknowledge they have participated in the drafting of this Injunction.
9 DEFENDANTS further acknowledge that they have thoughtfully and carefully reviewed this
10 Injunction with their attorney, have discussed its provisions, and fully and clearly understand its terms.

11 DEFENDANTS having stipulated to the provisions set forth herein, the Court having reviewed
12 the provisions, the Parties having agreed to the issuance of this Injunction, and good cause appearing
13 therefor,

14 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

15 **I. JURISDICTION**

16 This Court has jurisdiction over the subject matter of this lawsuit and each of the parties in this
17 action. The Court issues this Injunction pursuant to its authority under California Business and
18 Professions Code Section 17203.

19 The Court expressly retains jurisdiction to modify this Injunction as the ends of justice may
20 require and to interpret and enforce this Injunction. The Court may hear and decide issues regarding
21 the scope and effect of the provisions herein. Any party to this Injunction may apply to the Court at
22 any time, after making a reasonable effort to meet and confer with the other parties, for further orders
23 and directions as may be necessary or appropriate for the construction, application or carrying out of
24 the provisions herein, including for the enforcement of any provisions herein or punishment of
25 violations of same, if any, subject to the Parties' agreement to mediate certain disputes as reflected in
26 Paragraph 5 of Section IV below .

27 The Parties agree that the obligations arising out of this Injunction shall rest with all

1 DEFENDANTS, as defined herein, jointly and severally, except as otherwise specifically provided.

2 **II. APPLICATION**

3 The provisions of this Injunction apply to DEFENDANTS CHUCK M. POST,
4 INDIVIDUALLY AND D/B/A APARTMENTSINSF.COM and LEM-RAY PROPERTIES I DE,
5 LLC, as well as their employees, property managers, agents, representatives, successors, and assigns in
6 connection with any real property located in San Francisco, including 935 Geary Avenue and 81 Ninth
7 Street, which properties are managed and/or owned, in whole or in part, by one or both of the
8 DEFENDANTS, in their own names, or as members of a limited liability company, partnership, or
9 other corporate entity, including but not limited to Lem-Ray Properties I DE, LLC (the
10 "PROPERTIES"). For the avoidance of doubt, this Injunction binds Lem-Ray Properties I DE, LLC
11 and any related successor corporate entities.

12 **A. NECESSITY FOR INJUNCTION**

13 This Court finds that this Injunction is necessary in the interest of the health, safety, and
14 welfare of the residents of the City and County of San Francisco and the citizens of the State of
15 California and to ensure that DEFENDANTS comply with all applicable laws in the ownership,
16 operation, management, or maintenance of the PROPERTIES.

17 **B. TERM OF INJUNCTION**

18 This Injunction shall remain in effect for a three-year period from the date of entry of this
19 Injunction.

20 **III. INJUNCTIVE TERMS**

21 **A. Advertisements of Available Units**

22 DEFENDANTS subject to this Injunction are hereby enjoined and restrained from:

- 23 1. Posting any advertisements stating that Section 8 vouchers, also known as Housing
24 Choice Vouchers, are not accepted forms of payment;
25 2. Including the phrases "No Section 8" or "No Housing Choice Vouchers" or similar
26 language in any advertisements for rental units; and
27

- 1 3. Indicating in any advertisements for rental units that cash, check, or other non-voucher
2 form of payment is preferred.

3 **DEFENDANTS subject to this Injunction shall:**

- 4 1. Post notices at the **PROPERTIES** advising the public that Section 8 vouchers, also
5 known as Housing Choice Vouchers, are accepted forms of payment. This notice shall
6 be posted on a document no smaller than 8.5 inches by 11 inches, shall be placed
7 approximately at eye level for the public, and shall read in at least 40-point font: "We
8 accept Section 8 vouchers, also known as Housing Choice Vouchers;" and
9 2. Include in all advertisements for rental units at the **PROPERTIES** language similar to or
10 including "Section 8 vouchers welcomed."

11 **B. Policies Regarding Rentals and Tenants**

12 **DEFENDANTS subject to this Injunction are hereby enjoined and restrained from:**

- 13 1. Having a policy of refusing to rent to persons in whole or part because the person will
14 pay for some or all of the rental payment with a rental assistance voucher; and
15 2. Refusing to rent to any person in whole or in part because the person will pay for some
16 or all of the rental payment with a rental assistance voucher.

17 **IV. ENFORCEMENT**

18 1. A violation of this Injunction may constitute contempt of Court. The terms of this
19 Injunction may be enforced through a contempt proceeding, a motion to enforce, a separate lawsuit, or
20 any other proceeding recognized by the Court for enforcement of an injunction.

21 2. In the event that the Court determines, after notice to **DEFENDANTS** and an
22 opportunity to be heard, that **DEFENDANTS** willfully violated any of the terms of this Injunction,
23 **DEFENDANTS** shall be liable for civil penalties of no more than \$6,000 per violation under
24 California Business and Professions Code Sections 17206 and 17207, in addition to any other remedy
25 available in law or equity.

26 3. Any fines, penalties, or other monetary relief sought for violation of this Injunction,
27 shall be in addition to any other available remedies.

28

1 4. In addition to any other relief provided herein, or by law, PLAINTIFFS shall be entitled
2 to all reasonable attorneys' fees and costs, including costs of investigation, incurred in the enforcement
3 of this Injunction and/or collection of all sums owed under the Settlement Agreement filed
4 concurrently with this Injunction.

5 5. Prior to taking any action to enforce sub-parts A or B of the Injunctive Terms of this
6 Injunction, Plaintiffs shall meet and confer with Defendants in good faith and make an effort to resolve
7 the alleged violation. If the parties cannot resolve the alleged violation through good faith efforts,
8 either party may request a mediation with the Honorable Judge Harold E. Kahn. If Judge Kahn is not
9 available, the parties agree to mediate with any San Francisco Superior Court Judge assigned by the
10 Court. If mediation is unsuccessful, Plaintiffs reserve the right to enforce this Injunction.

11 6. The Parties have come to a monetary resolution of this matter that involves a separate
12 Settlement Agreement filed concurrently with this Injunction. The provisions for payment of the
13 Settlement Amount set forth in the Settlement Agreement are incorporated by reference herein. Any
14 failure to make payments pursuant to the Settlement Agreement shall be deemed a violation of this
15 Injunction, subjecting the applicable Defendant to any and all penalties described in this Injunction.

16 7. The Court expressly reserves jurisdiction to take such further action as may be
17 necessary or appropriate to carry into effect the provisions of this Injunction, including enforcing the
18 terms of the Settlement Agreement regarding payments, even if such breach occurs after the operative
19 period of this Injunction.

20 **H. RECORDATION.**

21 This Injunction and Settlement Agreement shall not be recorded with the San Francisco
22 Assessor-Recorder's Office unless expressly authorized by the Court as part of an order to enforce the
23 terms of the Settlement..

24 **I. NO WAIVER OF RIGHT TO ENFORCE.**

25 The failure of PLAINTIFFS to enforce any provision of this Injunction shall in no way be
26 deemed a waiver of such provision or in any way affect the validity of the Injunction. The failure of
27 PLAINTIFFS to enforce any such provision shall not preclude PLAINTIFFS from later enforcing the
28

1 same or any other provision of the Injunction. No oral advice, guidance, suggestion or comments by
2 PLAINTIFFS, or anyone acting on PLAINTIFFS' behalf, regarding matters covered in the Injunction
3 shall be construed to relieve DEFENDANTS of their obligations.

4
5 **SO STIPULATED:**

6 For the CITY AND COUNTY OF SAN FRANCISCO and the PEOPLE OF THE STATE OF
7 CALIFORNIA:

8 Dated: 04.17, 2019 DENNIS J. HERRERA, City Attorney
9 By: [Signature]
10 RONALD P. FLYNN
11 Chief Deputy City Attorney

12 For CHUCK M. POST, INDIVIDUALLY AND D/B/A APARTMENTSINSF.COM and LEM-RAY
13 PROPERTIES I DE, LLC:

14 Dated: 9/24/19 [Signature]
15 CHUCK M. POST

16 Dated: 10/10/2019 [Signature] I DE LLC
17 LEM-RAY PROPERTIES I DE, LLC

18 Approved as to Form:
19 Dated: 10/10/2019 [Signature]
20 EDWARD C. SINGER, JR.
21 Counsel for Defendants

22 Dated: 10/16/2019 [Signature]
23 MOLLY ALARCON
24 Counsel for Plaintiffs

25 **IT IS SO ORDERED:**

26 DATE OF ENTRY: _____
27 JUDGE OF THE SUPERIOR COURT

1 same or any other provision of the Injunction. No oral advice, guidance, suggestion or comments by
2 PLAINTIFFS, or anyone acting on PLAINTIFFS' behalf, regarding matters covered in the Injunction
3 shall be construed to relieve DEFENDANTS of their obligations.
4

5 **SO STIPULATED:**

6 For the CITY AND COUNTY OF SAN FRANCISCO and the PEOPLE OF THE STATE OF
7 CALIFORNIA:

8 Dated: DENNIS J. HERRERA, City Attorney

9 By: _____
10 RONALD P. FLYNN
11 Chief Deputy City Attorney

12 For CHUCK M. POST, INDIVIDUALLY AND D/B/A APARTMENTSINSF.COM and LEM-RAY
13 PROPERTIES I DE, LLC:

14 Dated: 9/24/19 _____
15 CHUCK M. POST

16 Dated: _____
17 LEM-RAY PROPERTIES I DE, LLC

18 Approved as to Form:

19 Dated: _____
20 EDWARD C. SINGER, JR.
21 Counsel for Defendants

22 Dated: _____
23 MOLLY ALARCON
24 Counsel for Plaintiffs

25 **IT IS SO ORDERED:**

26 DATE OF ENTRY: 5/6/2019 10/17/19 _____
27 JUDGE OF THE SUPERIOR COURT
28 HAROLD KAHN