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The People of the State of California

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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN MATEO

12

13 THE PEOPLE OF THE STATE OF CALIFORNIA
14 Plaintiff,
15 v.
16 KELLY TAX SERVICE, KELLY TAX AND
NOTARY SERVICE, JACKELYN VARGAS aka
17 JACKELYN NAVARRO, DAVIS VARGAS and
DOES 1 THROUGH 10, inclusive,
18 Defendants.

Case No.:
**COMPLAINT FOR
INJUNCTION, CIVIL
PENALTIES, AND OTHER
RELIEF**

Date: March 18, 2003

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1 Plaintiff, the People of the State of California, by Bill Lockyer, Attorney General of the
2 State of California, alleges the following on information and belief:

3 **PARTIES**

4 1. Defendants Davis Vargas and Jackelyn Vargas (aka Jackelyn Navarro) are
5 individuals. They engage in business under the names Kelly Tax Service and Kelly Tax and
6 Notary Service.

7 2. Defendants Kelly Tax Service and Kelly Tax and Notary Service are businesses of
8 unknown form.

9 3. Defendant Davis Vargas is not currently nor was he at any time referred to in this
10 Complaint licensed to practice law in the State of California or authorized by federal law to
11 represent persons before the Immigration and Naturalization Service or the Immigration Courts
12 and Board of Immigration Appeals.

13 4. Defendant Jackelyn Vargas (aka Jackelyn Navarro) is not currently nor was she at
14 any time referred to in this Complaint licensed to practice law in the State of California or
15 authorized by federal law to represent persons before the Immigration and Naturalization Service
16 or the Immigration Courts and Board of Immigration Appeals.

17 5. Defendants Kelly Tax Service and Kelly Tax and Notary Service are not currently
18 nor were they at any time referred to in this Complaint nonprofit, tax-exempt corporations.

19 6. The true names of defendants sued herein under the fictitious names Does 1
20 through 10 are unknown to plaintiff. Plaintiff will seek leave of court to amend this Complaint to
21 allege such names as soon as they are ascertained.

22 7. All references in this Complaint to any of the defendants shall also include all of
23 them, unless otherwise specified. Whenever reference is made in this Complaint to any act of
24 Defendants, such allegation shall mean that each defendant acted individually and jointly with the
25 other defendants.

26 8. At all relevant times, each defendant has committed the acts, caused others to
27 commit the acts, or permitted others to commit the acts alleged in this Complaint.

28 9. Any allegation about any acts of any corporate or other business defendant shall

1 mean that the corporation or other business did the acts alleged through its officers, directors,
2 employees, agents and/or representatives while they were acting within the actual or ostensible
3 scope of their authority.

4 10. The named defendants' principal place of business is located at 715 E. 3rd Ave.,
5 San Mateo, California.

6 11. The violations of law alleged in this Complaint occurred in the City and County of
7 San Mateo and may also have occurred elsewhere in California.

8 **FIRST CAUSE OF ACTION**

9 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

10 **(UNLAWFUL BUSINESS ACTS OR PRACTICES)**

11 **(Against all Defendants)**

12 12. The People reallege and incorporate by reference paragraphs 1 through 11 of this
13 Complaint.

14 13. Defendants have engaged and are engaging in unfair competition as defined by
15 California Business and Professions Code section 17200 by engaging in acts or practices
16 including, but not necessarily limited to, violation of Business and Professions Code section
17 22443.3.

18 14. Business and Professions Code section 22443.3 provides that any person making a
19 statement indicating directly or by implication that the person serves as an immigration consultant
20 must have on file with the Secretary of State a bond of \$50,000. The measure, which is contained
21 in the Immigration Consultants Act (Bus. & Prof. Code § 22440 et seq.), provides:

22 It is unlawful for any person to disseminate by any means any statement
23 indicating directly or by implication that the person engages in the business or acts
24 in the capacity of an immigration consultant, unless the person has on file with the
25 Secretary of State a bond, in the amount and subject to the terms described in
26 Section 22443.1, that is maintained throughout the period covered by the
27 statement, such as, but not limited to the period of a yellow pages listing.

28 15. Section 22443.1 of the Business and Professions Code, describing the amount and

1 terms of the required bond, provides in relevant part:

2 (a) . . . [E]ach person shall file with the Secretary of State a bond of fifty thousand
3 (\$50,000) executed by a corporate surety admitted to do business in this state and
4 conditioned upon compliance with this chapter. The total aggregate liability on the
5 bond shall be limited to fifty thousand dollars (\$50,000). . . .

6 (b) The bond required by this section shall be in favor of, and payable to, the
7 people of the State of California and shall be for the benefit of any person damaged
8 by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure
9 to provide the services of the immigration consultant or the agents, representatives,
10 or employees of the immigration consultant while acting within the scope of that
11 employment or agency.

12 16. Section 22441(a) of the Business and Professions Code provides:

13 A person engages in the business of or acts in the capacity of an
14 immigration consultant when that person gives nonlegal assistance or advice on an
15 immigration matter.

16 17. From a point on or after January 1, 2002, and continuing to the present, Defendants
17 have disseminated and continue to disseminate statements indicating directly or by implication
18 that they engage or propose to engage in the business, or act in the capacity or propose to act in
19 the capacity, of an immigration consultant.

20 18. Defendants do not currently have on file with the Secretary of State, nor have they
21 at any time referred to in this Complaint had on file with the Secretary of State, the requisite
22 \$50,000 bond.

23 **SECOND CAUSE OF ACTION**

24 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 22443.3**

25 **(FAILURE TO OBTAIN AND FILE SURETY BOND)**

26 **(Against all Defendants)**

27 19. The People reallege and incorporate by reference paragraphs 1 through 11 and 13
28 through 18 of this Complaint.

1 20. By disseminating statements indicating directly or by implication that they engage
2 in the business or act in the capacity of an immigration consultant, without having on file with the
3 Secretary of State the bond described in Business and Professions Code Section 22443.1,
4 Defendants have violated Business and Professions Code section 22443.3.

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6 WHEREFORE, Plaintiff prays for judgment as follows:

7 1. Pursuant to Business and Professions Code sections 17203 and 22446.5, that all
8 Defendants, their agents, employees, officers, representatives, successors, partners, assigns, and
9 all persons acting in concert or participating with them, be permanently enjoined from violating
10 Business and Professions Code sections 17200 and 22443.3, including but not limited to the
11 violations alleged in this Complaint;

12 2. Pursuant to Business and Professions Code sections 17206, 22445 and 22446.5,
13 that the Court assess a civil penalty against each Defendant for each violation of Business and
14 Professions Code sections 17200 and 22443.3 alleged in the Complaint, as proved at trial, in the
15 total amount of at least \$25,000.00;

16 3. That the People recover their costs of suit; and

17 4. That the Court grant such other and further relief as it may deem just and proper.

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19 Dated: March 18, 2003

BILL LOCKYER,
Attorney General
HERSCHEL T. ELKINS,
Senior Assistant Attorney General
MARGARET REITER,
Supervising Deputy Attorney General
SETH E. MERMIN,
Deputy Attorney General

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24 By _____
25 SETH E. MERMIN
26 Attorneys for the Plaintiff,
27 the People of the State of California
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