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Los Angeles Superior Court
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John A. Clarke, Executive
Officer/Clerk
By Shaunya Wesley, Deputy

8 Attorneys for Plaintiff
9 THE PEOPLE OF THE STATE OF CALIFORNIA ex
rel. EDMUND G. BROWN JR., as Attorney General
10 of the State of California

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

14 THE PEOPLE OF THE STATE OF CALIFORNIA ex
15 rel. EDMUND G. BROWN JR., as Attorney General of
the State of California,

16 Plaintiff,

17 vs.

18 JOSE MARIA LIRA, an Individual and DOES I
19 through 50, inclusive,

20 Defendants.
21

CASE NO. BC397601

COMPLAINT FOR
INJUNCTIVE RELIEF AND
CIVIL PENALTIES
(Business & Professions Code
sections 17200 et seq.)

22
23 Plaintiff, the People of the State of California, by and through Edmund G. Brown Jr., as
24 Attorney General of the State of California, is informed and believes, and on such information
25 and belief alleges:

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27 //

28 //

1 **INTRODUCTION**

2 1. This action is brought by Plaintiff, the People of the State of California, ex rel.
3 Edmund G. Brown Jr., Attorney General of the State of California, against Defendant Jose Maria
4 Lira, (“Lira”), a southern California fleet operator, to stop Lira from engaging in unfair
5 competition. Lira has engaged in a pattern and practice of violating state law by misclassifying
6 truck drivers working for him as independent contractors rather than as employees. By
7 misclassifying the drivers as independent contractors, Lira has illegally lowered his cost of doing
8 business by failing to pay state employment-related taxes and by failing to provide workers’
9 compensation insurance. Lira’s unlawful conduct not only harms law-abiding transportation
10 companies, but also injures his employees and the taxpayers of California. This action seeks to
11 compel Lira to cease engaging in unfair competition and to pay applicable penalties.

12 **PARTIES**

13 2. Plaintiff Edmund G. Brown Jr. is the Attorney General of the State of California
14 and is the chief law officer of the State. (Cal. Const., art. V, § 13.) The Attorney General is
15 empowered by the California Constitution to take whatever action is necessary to ensure that the
16 laws of the State are uniformly and adequately enforced. He is statutorily authorized to bring
17 actions in the name of the People of the State of California to enforce California’s statutes
18 governing unfair competition. (Bus. & Prof. Code, § 17204.)

19 3. Defendant Jose Maria Lira is an individual, and at all times relevant herein was
20 doing business in the county of Los Angeles. Lira is a fleet operator, owning several trucks. He
21 hires truck drivers to transport cargo from the Ports of Los Angeles and Long Beach.

22 4. The true names and capacities of defendants sued in the complaint under the
23 fictitious names DOES 1 through 50, inclusive, presently are unknown to plaintiff, who therefore
24 sues such defendants by such fictitious names. Plaintiff will seek to amend this complaint to
25 allege the true names of DOES 1 through 50 when the same have been ascertained. Plaintiff is
26 informed and believes, and based thereon alleges, that each of the fictitiously named defendants
27 participated in some or part of the acts alleged herein.

28 5. Whenever reference is made in this complaint to any act of Lira, such allegations

1 shall mean that Lira through his agents, employees, or representatives, performed or authorized
2 such acts while they were acting within the actual or ostensible scope of their authority.

3 6. Whenever reference is made in this complaint to any act of the defendants,
4 including those named herein as Doe defendants, such allegations shall mean that each defendant
5 and/or Doe defendant acted individually and jointly with the other defendants, including the Doe
6 defendants, named in this complaint.

7 **FIRST CAUSE OF ACTION**

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

9 **(UNFAIR COMPETITION)**

10 (Against All Defendants)

11 7. The People reallege and incorporate by reference paragraphs 1 through 6 of this
12 complaint as if set fully herein.

13 8. Defendants have violated and continue to violate Business and Professions Code
14 section 17200, et seq. by engaging in acts of unfair competition including, but not limited to, the
15 following:

16 a. failing to pay Unemployment Insurance taxes as required by Unemployment
17 Insurance Code section 976;

18 b. failing to pay Employment Training Fund taxes as required by Unemployment
19 Insurance Code section 976.6;

20 c. failing to withhold State Disability Insurance taxes as required by
21 Unemployment Insurance Code section 984;

22 d. failing to withhold State income taxes as required by Unemployment Insurance
23 Code section 13020;

24 e. failing to provide workers' compensation as required by Labor Code section
25 3700;

26 f. and failing to provide employees with itemized written statements as required
27 by Labor Code section 226.

28 //

1 **PRAYER FOR RELIEF**

2 WHEREFORE, the People pray for the following relief:

3 1. Pursuant to Business and Professions Code section 17203, that defendants, their
4 successors, agents, representatives, employees and all persons who act in concert with
5 defendants be permanently enjoined from engaging in unfair competition as defined in Business
6 and Professions Code section 17200, including, but not limited to, acts and practices alleged in
7 this complaint;

8 2. Pursuant to Business and Professions Code section 17206, that the Court assess a civil
9 penalty of two thousand five hundred dollars (\$2,500) against Defendants for each violation of
10 Business and Professions Code section 17200, the total amount being no less than \$50,000.00 or
11 as proved at trial;

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

13 4. Such other and further relief that the Court deems appropriate and just.
14

15 Dated: September 5, 2008

Respectfully submitted,

16 EDMUND G. BROWN JR.
Attorney General of the State of California

17 MARK J. BRECKLER
Senior Assistant Attorney General

18 JON M. ICHINAGA
Supervising Deputy Attorney General

19 MAURICE JOURDANE
Deputy Attorney General

20 CAROLYN Y. LA
Deputy Attorney General

21 By: signature of
22 CAROLYN Y. LA
23 Deputy Attorney General

24
25 Attorneys for Plaintiff,
26 THE PEOPLE OF THE STATE OF CALIFORNIA
27 ex rel. EDMUND G. BROWN JR., as Attorney
28 General of the State of California