

1 EDMUND G. BROWN JR.
Attorney General of California
2 BELINDA J. JOHNS
Senior Assistant Attorney General
3 KELVIN GONG
Supervising Deputy Attorney General
4 WENDI A. HORWITZ, SBN 136021
TANIA M. IBANEZ, SBN 145398
5 Deputy Attorneys General
300 South Spring Street, Suite 1702
6 Los Angeles, CA 90013
Telephone: (213) 897-0218
7 Fax: (213) 897-7605
E-mail: tania.ibanez@doj.ca.gov
8 *Attorneys for Attorneys for the People of the State of
California*

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

SEP 08 2009

John M. Clark, Executive Officer/Clerk
By A. E. LaFleur-Clayton, Deputy

BC 42 12 50

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT

14 **THE PEOPLE OF THE STATE OF
15 CALIFORNIA,**

17 v.

18 **L.B. RESEARCH AND EDUCATION
19 FOUNDATION, A CALIFORNIA
20 NONPROFIT PUBLIC BENEFIT
21 CORPORATION; GERALD D.
22 BUCKBERG, AN INDIVIDUAL;
23 CONSTANTINE ATHANASULEAS, AN
24 INDIVIDUAL; DONALD PAGLIA, AN
25 INDIVIDUAL; SALEH
26 SALEHMOGHADDAM AKA SALEH
27 SALEH, AN INDIVIDUAL; LAWRENCE
28 F. MEYER, AKA LARRY MEYER, AN
INDIVIDUAL; LOWELL OFFER, AN
INDIVIDUAL; AND DOES 1 THROUGH
50, INCLUSIVE,**

Case No.

COMPLAINT FOR DAMAGES, CIVIL
PENALTIES, RESTITUTION, AN
ACCOUNTING, A CONSTRUCTIVE
TRUST, A PRELIMINARY AND
PERMANENT INJUNCTION,
INVOLUNTARY DISSOLUTION AND FOR
OTHER RELIEF ARISING FROM:

- (1) FAILURE TO MAINTAIN BOOKS
- (2) VIOLATION OF CORP CODE § 5230
- (3) BREACH OF FIDUCIARY DUTY-SELF DEALING
- (4) BREACH OF FIDUCIARY DUTY-LACK OF DUE CARE
- (5) FILING AND DISTRIBUTING FALSE REPORTS
- (6) UNFAIR BUSINESS PRACTICES
- (7) ACCOUNTING
- (8) INVOLUNTARY DISSOLUTION

Action Filed:

1
2
3 Plaintiff, the People of the State of California, complains and alleges as follows:

4 **GENERAL ALLEGATIONS**

5 1. Plaintiff, the People of the State of California, includes members of the class of
6 charitable beneficiaries of L.B. Research and Education Foundation, doing business in California.
7 The Attorney General, EDMUND G. BROWN JR. (hereinafter "the Attorney General"), who
8 brings this action on Plaintiff's behalf, is charged with the general supervision of all charitable
9 organizations within this State; with the enforcement of the obligations of trustees, nonprofits,
10 and fiduciaries who hold or control property in trust for charitable and eleemosynary purposes;
11 and with enforcement supervision under California's Unfair Business Practice Act for unlawful,
12 unfair, and fraudulent business practices within this State. The Attorney General is authorized to
13 enforce, in the name of the People, the provisions of the Supervision of Trustees and Fundraisers
14 for Charitable Purposes Act (Gov. Code § 12580 et seq.), the Nonprofit Public Benefit
15 Corporation Law (Corp. Code §5000, et seq.), the Solicitations for Charitable Purposes Law (Bus.
16 & Prof. Code § 17510 et seq.), and those provisions of the Business and Professions Code that
17 prohibit unlawful, unfair, or fraudulent business acts or practices within this State (Bus. & Prof.
18 Code §17200 et seq.)

19 2. Defendant L.B. Research and Education Foundation (hereinafter "LB") has its
20 principal place of business in the County of Los Angeles, California. LB holds its assets in trust
21 for charitable purposes. LB is considered a private foundation by the Internal Revenue Service.
22 LB's property is irrevocably dedicated to charitable purposes and no part of its net income or
23 assets may inure to the benefit of any director, officer, member or private person. LB's charitable
24 purpose is to "provide help to persons with physical and psychological problems, provide funding
25 for research activities related to physical or psychological problems and to provide funding for
26 scholarships and other programs that improve education."

27 3. Defendant Gerald Buckberg ("Buckberg"), a resident of the County of Los
28 Angeles, was the founder of, and is a substantial contributor to LB. From 1997 to present,

1 Buckberg held various positions of authority and control over LB, serving as director, chief
2 executive officer, and manager. As a substantial contributor and manager of LB, Buckberg is a
3 disqualified person under Title 26 United States Code section 4946, subdivision (a), and
4 prohibited from using, receiving or benefitting from LB's income or assets. As a director, officer,
5 and manager of LB, Buckberg is also a fiduciary of property irrevocably dedicated to charitable
6 purposes.

7 4. Defendant Constantine Athanasuleas ("Athanasuleas"), a resident of the State of
8 Alabama, is a director and officer of LB. Athanasuleas is also a substantial contributor to LB and
9 therefore a disqualified person under Title 26 United States Code section 4946, subdivision (a),
10 and prohibited from using, receiving or benefitting from LB's income or assets. As a director and
11 officer of LB, Athanasuleas is also a fiduciary of property irrevocably dedicated to charitable
12 purposes.

13 5. Defendant Donald Paglia ("Paglia"), a resident of the County of Los Angeles, is a
14 director and officer of LB. Paglia is a fiduciary of property irrevocably dedicated to charitable
15 purposes.

16 6. Defendant Saleh Salehmoghaddam ("Saleh"), also known as Saleh Saleh, a
17 resident of County of Los Angeles, is a director of LB. Saleh is a fiduciary of property
18 irrevocably dedicated to charitable purposes.

19 7. Defendant Lawrence F. Meyer ("Meyer"), also known as Larry Meyer, a resident
20 of the County of Los Angeles, is a director of LB. Meyer is a fiduciary of property irrevocably
21 dedicated to charitable purposes.

22 8. Lowell Offer ("Offer"), a resident of the County of Los Angeles, is a director of
23 LB. Offer is a fiduciary of property irrevocably dedicated to charitable purposes.

24 9. Defendants Does 1-50, inclusive, are the fictitious names of defendants who have
25 acted as directors, officers, trustees, agents or employees of any of the defendants herein, or who
26 have participated or acted in concert with one or more of the defendants, sued herein under
27 fictitious names, their true names and capacities being unknown to plaintiff. Because plaintiff is
28 presently uninformed as to the true names and capacities of these defendants, and their

1 involvement with LB, Plaintiff will amend this complaint to allege their true names and capacities
2 when ascertained.

3 10. All defendants described in paragraphs 2-9 shall be collectively referred to as
4 "Defendants" in this Complaint unless otherwise indicated. Whenever reference is made in this
5 Complaint to any act of defendants, such allegation shall mean that each defendant acted
6 individually and/or jointly with the other defendants named in that cause of action.

7 11. At all times material herein, defendants and each of them have been transacting
8 business in Los Angeles County. The violations of law hereinafter described have been and are
9 now being carried out in part within said county and elsewhere.

10 **FIRST CAUSE OF ACTION**

11 **FAILURE TO MAINTAIN ADEQUATE BOOKS AND RECORDS**

12 **(AGAINST ALL DEFENDANTS)**

13 12. Under California Corporations Code section 6320, Defendants must maintain
14 adequate and correct books and records and minutes of LB's board proceedings. Under
15 Corporations Code section 5160, LB's bylaws and articles of incorporation must be kept at its
16 principal headquarters. On August 6, 2007, the Attorney General demanded that LB produce
17 copies of all board minutes, bylaws and board resolutions from 1997 to 2007. The Attorney
18 General also demanded that LB produce records related to its grants, including grant proposals,
19 grant agreements, final reports and other records showing that LB exercised expenditure control
20 as required under Title 26 United States Code section 4945. Despite numerous extensions,
21 Defendants failed to produce minutes for board meetings purportedly held between 1997 to 2004
22 and also failed to produce LB's adopted bylaws. Likewise, Defendants failed to produce any
23 written grant agreements, grant applications or final reports even though these records were
24 required and should have been maintained in the course of LB's business under Title 26 United
25 Stated Code section 4945. On information and belief, defendants also failed to distribute any
26 annual reports or statements as required by Corporations Code sections 6321 and 6322.

27 13. Defendants failed to perform their fiduciary duty to maintain proper and complete
28 records. The failure to prepare and maintain LB's books, accounts records, board minutes and

1 bylaws as required by law is evidence of gross mismanagement and abuse of authority.
2 Accordingly, LB's directors should be permanently removed as directors and officers of LB and
3 ordered to produce records under Corporations Code section 6323. Pursuant to Corporations
4 Code section 6323, the Court should order defendants to deliver the information and financial
5 statements required under 6320 et seq. Defendants should also be required to reimburse the
6 Attorney General all reasonable attorney' fees and actual costs incurred in conducting this action,
7 as provided by Government Code section 12598.

8
9 **SECOND CAUSE OF ACTION**
10 **VIOLATION OF CORPORATIONS CODE SECTIONS 5210 AND 5213**
11 **(AGAINST ALL DEFENDANTS)**

12 14. Under Corporations Code sections 5210 and 5213, all corporate powers of a
13 nonprofit public benefit corporation must be exercised by board action. A nonprofit public
14 benefit corporation must have a chairman of the board, a secretary and a chief financial officer.
15 The chairman of the board cannot serve concurrently as either secretary or treasurer. In addition,
16 the officers must be chosen by the board.

17 15. On information and belief, LB has not been operated by an independent board as
18 required by Corporations Code section 5210. Instead, LB has operated under the executive and
19 financial management of Buckberg. LB's purported officers, CEO Athanasuleas, CFO Paglia and
20 Secretary Saleh were unaware that they held officer positions within LB. Many of the directors
21 were not aware of the identity of their fellow directors and only learned of their identity when and
22 if the new directors appeared at the annual board meeting.

23 16. From 1997 to 2007, all of LB's directors and officers were selected and appointed
24 by Buckberg. Although Buckberg purportedly resigned as chairman in 2000, LB continued to be
25 under his primary management and control. LB's directors and officers were unaware of the
26 grants awarded by Buckberg until after the grants were paid out. For example, CEO
27 Athanasuleas was not aware of the identity of several entities that had received grants, nor was he
28 aware that LB's funds were used to produce a DVD entitled "The Helical Heart," the copyright is

1 owned by Buckberg's for-profit company. CFO Paglia was not aware of expenses and grants
2 approved by Buckberg to pay for statistical analysis that benefitted research conducted by
3 Buckberg and Athanasuleas. LB's officers and directors were not aware that LB's funds were
4 used to produce a heart model, called the Helical Heart Model, that is sold to the public by
5 Buckberg's for-profit company, and used by Buckberg in presentations he made to the medical
6 community. Although Buckberg purportedly resigned from LB's board of directors, he still had
7 control over LB's checkbook, and all investment and bank statements were sent to him.
8 Buckberg arranged for and presided over all of the board meetings and LB's mail was sent to a
9 P.O. Box solely controlled by Buckberg.

10 17. From 1997 to present, LB's directors and officers have deferred to Buckberg and
11 allowed him to manage and control LB. Under Buckberg's management, grants have been made
12 for non-charitable, improper and illegal purposes that inure to the benefit of Buckberg and other
13 disqualified persons.

14 18. Because Defendants failed to exercise independent judgment, they should be
15 removed permanently as directors of LB pursuant to the provisions of Corporation Code section
16 5223. Defendants should also be required to reimburse the Attorney General all reasonable
17 attorney' fees and actual costs incurred in conducting this action, as provided by Government
18 Code section 12598.

19 **THIRD CAUSE OF ACTION**

20 **BREACH OF FIDUCIARY DUTY-SELF DEALING**

21 **(AGAINST DEFENDANTS BUCKBERG, PAGLIA AND ATHANASULEAS, DOES 1-50)**

22 19. Defendants Buckberg, Athanasuleas, Paglia and DOES 1-50 engaged in self-
23 dealing acts in violation of Corporations Code section 5233 and Title 26 United States Code
24 section 4946. As directors, officers, managers and substantial contributors of LB, Buckberg,
25 Athanasuleas and Paglia are prohibited from receiving any goods, services, facilities, assets or
26 income from LB. Plaintiff is informed and believes and thereon alleges that defendants, and each
27 of them, in violation of their duties of care and loyalty and in breach of trust, improperly engaged
28 in the following self-dealing transactions:

- 1 a. Funding over \$60,000 to UCLA Foundation on or about November 30, 1999
2 through February 1, 2000, to support Buckberg's research and laboratory.
- 3 b. Funding various grants from December 1, 1997 through November 30, 2004,
4 totaling over \$120,000, to produce an educational DVD called *The Helical*
5 *Heart*. All rights to the DVD are owned by The Helical Heart Co., LLC, a for-
6 profit Ohio limited liability company formed and owned by Buckberg and his
7 cousin, Herb Urell. The DVD supported a medical patent owned Dr. Buckberg
8 and Dr. Athanasuleas' private company.
- 9 c. Funding various grants in 2003, totaling over \$15,000, to General Theming
10 Contractors, LLC for the production of the Helical Heart Model. On
11 information and belief, General Theming Contractors is a for-profit
12 corporation controlled by Buckberg and his cousin, Herb Urell.
- 13 d. Funding over \$140,000 to California Institute of Technology in 2000, 2002
14 and 2003 for research requested by Buckberg to be conducted by Dr. Morteza
15 Gharib, Ph.D. On information and belief, Buckberg collaborated with and
16 directed Dr. Gharib's research. Buckberg and Gharib were listed as co-authors
17 of numerous research articles in the European Journal of Cardio-thoracic
18 Surgery and Seminars in Thoracic and Cardiovascular Surgery. Dr. Gharib's
19 imaging work was used in the *Helical Heart* DVD.
- 20 e. Funding over \$50,000 from 2002 to 2006 to support conferences, travel, and
21 hotel expenses for Buckberg, Athanasuleas and other individual physicians
22 who were members of the Restore group that performed an operation called
23 Surgical Ventricular Restoration ("SVR"), a surgical treatment for patients
24 with certain types of congestive heart failure. The SVR research supported a
25 medical device known as the CorRestore System patch that is licensed and
26 patented by a for-profit corporation controlled by Buckberg and Athanasuleas.
27 In fact, Somanetics cited research supported by LB as a basis for marketing the
28 CorRestore patch to the public at large.

- 1 f. Funding approximately \$40,000 to William Siler and Kemp-Carraway Heart
2 Institute from 1998 through 2005 for statistical analysis related to the
3 CorRestore System patch
- 4 g. Funding Paglia's research in 1999, including a grant in the sum of \$8,459.17
5 for a Rhino Study and a conference he organized.
- 6 h. Funneling over \$25,000 in 2006, to Paglia's friend, Catherine Woskow, as a
7 quid pro quo for Paglia's donation to LB.
- 8 i. Funding \$1 million to UCLA in 2000 for an endowed faculty chair that
9 Buckberg attempted to and did apply for the chair. When UCLA refused to
10 award the chair to Buckberg, LB filed an action against UCLA and has spent
11 over \$400,000 litigating the action against UCLA.

12 20. Because Defendants' breach of loyalty was pervasive and persistent, defendants
13 should be removed from office, ordered to account for all diverted funds, ordered to pay LB the
14 value of the diverted property, as well as any profits made, together with payment of prejudgment
15 interest as allowed under Corporation Code sections 5223 and 5233.

16 **FOURTH CAUSE OF ACTION**

17 **BREACH OF FIDUCIARY DUTY- LACK OF DUE CARE**

18 **(AGAINST ALL DEFENDANTS)**

19 21. Plaintiff re-alleges and incorporates by reference herein each and every allegation
20 contained in paragraphs 1-20.

21 22. In operating LB, Defendants were prohibited from making grants defined as
22 taxable expenditures as set forth under Title 26 United States Code section 4945 and Corporations
23 Code section 5260. To avoid taxable expenditures, Defendants were required to exercise
24 expenditure responsibility. This required (a) making pre-grant inquiries before donating funds,
25 (b) entering into grant agreements, (c) obtaining full and complete annual reports and final reports
26 from the grantees, (d) basing grants to individuals on procedures preapproved by the Internal
27 Revenue Service, (e) awarding grants on an objective, nondiscriminatory basis from a pool large
28

1 enough to constitute a charitable class, and (f) keeping all records related to grants made to
2 individuals.

3 23. In violation of Title 26 United States Code section 4945, defendants failed to
4 exercise expenditure responsibility. No annual reports or final reports were required from
5 individual grantees. No grant agreements were ever entered into. LB did not have a grant
6 procedure approved in advance by the Internal Revenue Service. Grants were not awarded on a
7 nondiscriminatory basis; instead, the directors of LB hand-picked their friends, colleagues, and
8 research collaborators as the grant recipients. As an example, LB funded a grant for \$25,000, in
9 2006, to Catherine Woskow for her research in the arts, even though her research project was not
10 consistent with LB's charitable purpose. Woskow was selected as a grantee based on her
11 association with Paglia, who donated money to LB so that Woskow's grant could be funded.
12 Likewise, multiple grants were funneled by LB to individuals selected by donors. From 1998 to
13 2000, the Nathan Pritikin Research Foundation (Pritikin Foundation) donated \$ 80,000 to LB. In
14 return, from 2001-2006, LB funneled Pritikin Foundation's donations to UCLA Foundation to
15 support the research of R. James Barnard, Ph.D., a long-time consultant to Pritikin Longevity
16 Center and an advisory director of the Pritikin Foundation. Because LB engaged in no
17 expenditure responsibility, the grants to Barnard were taxable expenditures. Likewise, LB's
18 funding of Restore meetings by paying over \$50,000 in hotel and travel expenses of LB directors
19 and other medical researchers was a self-dealing transaction and also a taxable expenditure.
20 Buckberg selected the Restore participants, and created the agenda for the meetings. In return,
21 the Restore researchers conducted the surgical ventricular restoration research. Restore's
22 research support the CorRestore System patch that is licensed and patented by a for-profit
23 corporation controlled by Buckberg and Athanasuleas and was marketed by Somanetics
24 corporation. The Restore participants were not selected in a unbiased fashion from the general
25 public, they were medical researchers selected by Buckberg to participate in medical research that
26 he was interested in and out of which he could gain substantial financial benefits, as well as
27 public recognition.

28

1 report to the Internal Revenue Service all grants to for-profit organizations by listing the name
2 and address of the grantees, the date and amount of each grant, the amount expended by each
3 grantee, the date or dates the reports were received from each grantees, and the date or dates and
4 results of any verification of the grantees' reports.

5 28. LB's informational returns were also incomplete and inaccurate in that for-profit
6 grantees were identified in those returns as charitable organizations. As an example, LB's 2003
7 Form 990 lists "General Theming Contractors" as a private foundation when it is in fact a for-
8 profit organization. The return also state that \$15,000 was awarded to General Theming for
9 research, when in fact the funds were used to produce the Helical Heart Model that is sold by a
10 for-profit entity.

11 29. By creating false records, Defendants violated Corporations Code sections 6215
12 and 6812. LB has been damaged by the falsification and publication of false records. The
13 fabrication and distribution of false records, and the failure to prepare and maintain accurate
14 records is evidence of gross mismanagement, abuse of authority, fraud and is an unlawful
15 business practice. Defendants should be ordered to reimburse LB for all damages and expenses
16 sustained and to be incurred due to their actions and omissions. Defendants should also be
17 required to reimburse the Attorney General all reasonable attorney' fees and actual costs incurred
18 in conducting this action, as provided by Government Code section 12598.

19 **SIXTH CAUSE OF ACTION**

20 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

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

22 **(AGAINST ALL DEFENDANTS)**

23 30. Plaintiff re-alleges and incorporates by reference herein each and every allegation
24 contained in paragraphs 1-29.

25 31. Defendants engaged in and participated in acts of unfair competition, as defined by
26 Business and Professions Code section 17200, when they obtained control over and diverted
27 charitable assets from LB by means that were unlawful, unfair, deceptive, and/or fraudulent. On
28 information and belief, in the last four years, defendants have misused and misappropriated

1 charitable funds from LB for their personal and private financial benefit and/or for the benefit of
2 defendants' friends and business associates. Defendants engaged in self-dealing transactions in
3 violation of Corporations Code section 5233 and Title 26 United States Code section 4946.
4 Defendants made taxable expenditures in violation of Title 26 United States Code, section 4945,
5 and Corporations Code section 5260.

6 32. Defendants committed and continue to commit acts of unfair competition as
7 defined in Business and Professions Code section 17200 including, but not necessarily limited to,
8 the following:

- 9 a. Funding over \$60,000 to UCLA Foundation on or about November 30, 1999
10 and February 1, 2000, to support Buckberg's research and laboratory.
- 11 b. Funding various grants from December 1, 1997 through November 30, 2004,
12 totaling over \$120,000, to produce an educational DVD entitled *The Helical*
13 *Heart*. All rights to the DVD are owned by The Helical Heart Co., LLC, a for-
14 profit Ohio limited liability company formed and owned by Buckberg and his
15 cousin, Herb Urell.
- 16 c. Funding various grants in 2003, totaling over \$15,000, to General Theming
17 Contractors, LLC for the production of the Helical Heart Model. General
18 Theming Contractors is a for-profit corporation controlled by Buckberg and his
19 cousin, Herb Urell.
- 20 d. Funding over \$140,000 to California Institute of Technology in 2000, 2002
21 and 2003, for research requested by Buckberg to be conducted by Dr. Morteza
22 Gharib, Ph.D. On information and belief, Buckberg collaborated with and
23 directed Dr. Gharib's research and co-authored several articles with Dr.
24 Gharib. Buckberg and Gharib were listed as co-authors of numerous research
25 articles in the European Journal of Cardio-thoracic Surgery and Seminars in
26 Thoracic and Cardiovascular Surgery. Gharib's imaging studies were also
27 used in the production of the *Helical Heart* DVD.

- 1 e. Funding approximately \$40,000 to William Siler and Kemp-Carraway Heart
2 Institute, from 1998 to 2005, for statistical analysis related to medical research
3 conducted by Buckberg and Athanasuleas.
- 4 f. Funding over \$50,000, from 2002 to 2006, to support conference, travel, and
5 hotel expenses for Buckberg, Athanasuleas and other individual physicians
6 who perform an operation called Surgical Ventricular Restoration ("SVR"), a
7 surgical treatment for patients with certain types of congestive heart failure.
8 The SVR research supported the CorRestore System patch, which is licensed
9 and patented by a for-profit corporation controlled by Buckberg and
10 Athanasuleas.
- 11 g. Funding Paglia's research, including a grant in the sum of \$8,459.17, for a
12 Rhino Study and a conference he organized.
- 13 h. Funneling over \$25,000, in 2006, to Catherine Woskow as a quid pro quo for
14 Paglia's donation to LB.
- 15 i. Improperly funneling \$25,000 in donations received by LB from Somanetics to
16 Morristown Hospital and Mid Atlantic Surgical Association in 2004 for
17 research conducted on behalf of Somanetics.
- 18 j. Improperly funneling over \$80,000 in donations received from Pritikin
19 Foundation to UCLA Foundation for the benefit of Dr. Barnard's research
20 related to the effectiveness of Pritikin for-profit health, diet and fitness
21 programs.
- 22 k. Funding \$1 million to UCLA for an endowed faculty chair, that Buckberg then
23 applied for.

24 33. As a result of the aforementioned acts of unfair competition, plaintiff is entitled to
25 civil penalties in an amount that is presently unknown, but believed to be in excess of \$100,000.
26 Defendants should also be required to reimburse the Attorney General all reasonable attorney'
27 fees and actual costs incurred in conducting this action, as provided by Government Code section
28 12598.

1 alleged in this Complaint, has seriously offended against the statutes regulating corporations and
2 charitable organizations.

3 40. Involuntary dissolution of LB is therefore necessary and appropriate under the
4 provisions of Corporations Code sections 6510, subdivision (b)(5), and 6511, subdivision (a)(1).

5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, the People pray for judgment as follows:

7 1. For a preliminary and permanent injunction, enjoining Defendants and DOES 1
8 through 50, their employees, agents, servants, representatives, successors, and assigns, any and all
9 persons acting in concert or participation with them, and all other persons, corporations, or other
10 entities acting under, by, through, or on their behalf, from doing any of the following until they
11 have first provided a full and complete accounting for all funds received by, and disbursed from,
12 any and all financial accounts of LB from January 1, 1999, to the present: (a) expending,
13 disbursing, transferring, encumbering, withdrawing or otherwise exercising control over any
14 funds received by or on behalf of LB or rightfully due LB except as authorized by the Court; (b)
15 conducting business of any kind on behalf of, or relating to, LB other than as necessary to assist a
16 Receiver or appointed director(s), to comply with discovery requests and orders, and as permitted
17 by the Court; and (c) controlling or directing the operations and affairs of, or acting in a fiduciary
18 capacity on behalf of any California nonprofit public benefit corporation;

19 2. That an order issue directing that Defendants and DOES 1 through 50 and each of
20 them, render to the Court and to the Attorney General a full and complete accounting of the
21 financial activities and condition of LB and their dealings with LB from January 1, 1999, to the
22 present, to include the expenditure and disposition of all revenue and assets received by or on
23 behalf of LB. Upon the rendering of such accounting, that the Court determine the property, real
24 or personal, or the proceeds thereof that LB and the charitable beneficiaries thereof are lawfully
25 entitled, in whatsoever form in whosoever hands they may now be, and order and declare that all
26 such property or the proceeds thereof is impressed with a trust for charitable purposes, that
27 defendants are constructive trustees of all such charitable funds and assets in their possession,
28 custody or control, and that the same shall be deposited forthwith in Court by each and every

1 defendant now holding or possessing the same or claiming any rights, title or interest therein. In
2 addition, that these defendants be surcharged and held liable and judgment entered against each of
3 them for any and all such assets that they fail to properly account, together with interest thereon at
4 the legal rate from the date of liability thereon; and that any and all expenses and fees incurred by
5 defendants in this action be borne by the individual defendants and each of them and not by LB or
6 any other public or charitable corporation or fund;

7 3. For damages due to LB and its charitable beneficiaries, resulting from the breaches of
8 fiduciary duty of all defendants named in this Complaint and DOES 1 through 50 in an amount to
9 be determined following an accounting from these defendants, plus interest at the legal rate until
10 the judgment is paid;

11 4. That the Court assess civil penalties against all defendants pursuant to Government
12 Code section 12591.1 for violations of the Supervision of Trustees and Fundraisers for Charitable
13 Purposes Act (Gov. Code § 12580 et seq.) as proved at trial;

14 5. Pursuant to Business and Professions Code section 17206, that the Court assess a civil
15 penalty of two thousand five hundred dollars (\$2,500) against all named defendants and DOES 1
16 through 50 for each violation of Business and Professions Code section 17200 per day, as proved
17 at trial, in an amount no less than \$150,000;

18 6. Pursuant to Business and Professions Code section 17203, for a preliminary and
19 permanent injunction enjoining defendants, their successors, agents, representatives, employees
20 and all persons who act in concert with, or on behalf of, defendants from engaging in unfair
21 competition as defined in Business and Professions Code section 17200, including, but not
22 limited to, those acts and omissions alleged in this Complaint;

23 7. For a court order involuntarily dissolving LB, providing for satisfaction of all of its
24 lawful debts, and distribution of all its remaining assets in a manner consistent with its charitable
25 purpose;

26 8. For plaintiff's costs of suit and other costs pursuant to Government Code sections
27 12597 and 12598;

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

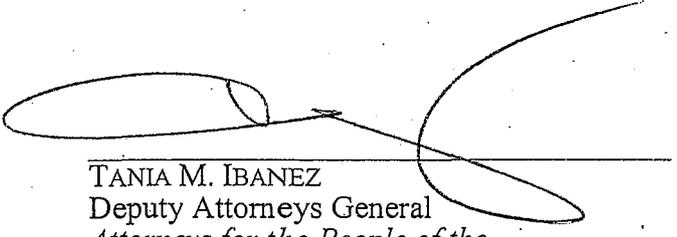
9. For plaintiff's attorney fees as provided in Government Code section 12598 and Code of Civil Procedure section 1021.8; and

10. For such other and further relief as the Court may deem to be just and proper.

THIS COMPLAINT IS DEEMED VERIFIED UNDER THE PROVISIONS OF CODE OF CIVIL PROCEDURE SECTION 446

Dated: September 4, 2009

EDMUND G. BROWN JR.
Attorney General of California
BELINDA J. JOHNS
Senior Assistant Attorney General
KELVIN GONG
Supervising Deputy Attorney General



TANIA M. IBANEZ
Deputy Attorneys General
*Attorneys for the People of the
State of California*

LA2007600785
60407992.doc