

1 KAMALA D. HARRIS  
Attorney General of California  
2 TANIA M. IBANEZ  
Senior Assistant Attorney General  
3 JAMES M. TOMA  
Supervising Deputy Attorney General  
4 ELYSE M. RENDÓN  
Deputy Attorney General  
5 State Bar No. 291490  
300 South Spring Street, Suite 1702  
6 Los Angeles, CA 90013  
Telephone: (213) 897-2659  
7

8 GREGORY D. TOTTEN  
District Attorney of Ventura County  
MITCHELL F. DISNEY  
9 Senior Deputy District Attorney  
State Bar No. 138114  
10 5720 Ralston Street, No. 300  
Ventura, CA 93003  
11 Telephone: (805) 662-1706

12 *Attorneys for the People of the State of California*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF VENTURA

15 **THE PEOPLE OF THE STATE OF**  
16 **CALIFORNIA,**  
17 **Plaintiff,**  
18  
19 **v.**  
20  
21 **CARS 4 CAUSES, a California nonprofit**  
**public benefit corporation; PATTI**  
22 **LIVINGSTON, an individual; PAT**  
**JESSUP, an individual; LINDSAY AND**  
23 **COMPANY, LLP, CERTIFIED PUBLIC**  
**ACCOUNTANTS, a limited liability**  
24 **partnership; MARIA BERNTSON, an**  
**individual; MATTHEW SMITH, an**  
25 **individual; MMI CAPITAL**  
**CORPORATION, a Nevada corporation;**  
26 **and DOES 1-100, inclusive.**  
27  
28 **Defendants.**

VENTURA  
SUPERIOR COURT  
**FILED**  
  
DEC 01 2015  
  
MICHAEL D. PLANET  
Executive Officer and Clerk  
BY: \_\_\_\_\_, Deputy  
**LESLIE PARAMO**

Case No. 56-2015-00475050-CU-BT-VTA  
  
COMPLAINT FOR PERMANENT  
INJUNCTION, CIVIL PENALTIES,  
REMOVAL OF DIRECTORS AND OFFICERS  
AND FOR OTHER EQUITABLE RELIEF  
ARISING FROM:  
  
(1) BREACH OF FIDUCIARY DUTY  
(2) AIDING AND ABETTING A BREACH OF  
FIDUCIARY DUTY  
(3) DECEPTIVE AND MISLEADING  
SOLICITATIONS (GOV. CODE § 12599.6)  
(4) BREACH OF FIDUCIARY DUTY (BUS. &  
PROF. CODE §17510.8)  
(5) UNTRUE OR MISLEADING  
STATEMENTS (BUS. & PROF. CODE  
§17500 et al)  
(6) SELF DEALING (CORP. CODE §5233)  
(7) UNJUST ENRICHMENT (CIV. CODE §  
2224)  
(8) BREACH OF CHARITABLE TRUST  
(9) UNFAIR COMPETITION (BUS. & PROF.  
CODE §17200)  
(10) NEGLIGENCE

1 1. Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA in their complaint against  
2 Defendants Cars 4 Causes; Patti Livingston; Pat Jessup; Maria Berntson; Lindsay and Company,  
3 LLP, Certified Public Accountants; Matthew Smith; MMI Capital Corporation; and DOES 1-100  
4 (collectively, Defendants), based on information and belief, allege as follows:

5 **OVERVIEW**

6 2. Cars 4 Causes (C4C) is a nonprofit corporation that advertises itself nationally as  
7 “America’s most trusted and recognized choice for turning your tax deductible vehicle donation  
8 into cash for your favorite charity”. C4C’s advertisements promise donors to deliver “More Tax  
9 Savings For You, More Money For Charity”. According to C4C’s filed reports, from 2005-2015,  
10 C4C received about \$90 million in donations from members of the public through its car donation  
11 program. C4C advertises that it provides direct financial support to charities by forwarding a  
12 substantial portion of the after-sale “net proceeds” of donated cars to the donors’ chosen charities.  
13 This is, and at all times relevant was, false. The majority of proceeds from donated vehicles  
14 never made it to charity. Instead, these donations paid for advertising campaigns so extensive  
15 even a C4C director deemed them “harassing,” and provided salaries and careers to C4C’s  
16 Officers and Directors and their families and friends.

17 3. All of C4C’s assets are held subject to a charitable trust. The officers and directors of  
18 C4C are fiduciaries and are thus legally required to put the interests of charity ahead of their own.  
19 Despite this, when C4C’s revenue began to decline, the officers and directors of C4C chose to  
20 pay themselves, and their families and friends, to the detriment of the donors’ specified charities.  
21 According to C4C’s own accountings, it owes about \$2 million to thousands of charities. In order  
22 to hide this diversion of charitable assets from the public, Defendants made and distributed  
23 misleading advertisements, reclassified C4C’s expenses as “indirect donations” to other charities  
24 in C4C’s filed reports, and designed and retroactively applied a pretextual accounting system that  
25 artificially reduced the money it owed to other charities. Defendants kept their “family business”  
26 afloat by diverting restricted charitable assets away from the very charities C4C promised donors  
27 it would support.

26 **PLAINTIFF**

27 4. THE PEOPLE OF THE STATE OF CALIFORNIA (THE PEOPLE) bring this action by  
28 and through Kamala D. Harris, Attorney General of the State of California (Attorney General)

1 and Gregory D. Totten, District Attorney of Ventura County (District Attorney). Kamala D.  
2 Harris is the duly elected Attorney General of the State of California and is charged with the  
3 general supervision of all charitable organizations within this State and with the enforcement and  
4 supervision over trustees and fiduciaries who hold or control property in trust for charitable and  
5 eleemosynary purposes. The Attorney General is authorized to enforce, in the name of the People,  
6 the provisions of the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Gov.  
7 Code, §12580, et seq.), the Nonprofit Corporation Law (Corp. Code, §5000, et seq.). The  
8 Attorney General and the District Attorney are both authorized to enforce, in the name of the  
9 People, those provisions of the Business and Professions Code that prohibit unlawful, unfair, and  
10 fraudulent business practices, and untrue or misleading statements (Bus. & Prof. Code §17200, et  
11 seq. and §17500, et seq.).

12 5. THE PEOPLE include members of the class of charitable beneficiaries of Cars 4 Causes, a  
13 California nonprofit public-benefit corporation.

#### 14 DEFENDANTS

15 6. Cars 4 Causes, Inc. (C4C) is a California corporation with its principal place of business  
16 in the City of San Buenaventura, County of Ventura, State of California. C4C's articles of  
17 incorporation represent that it is organized and will operate as a nonprofit corporation. In 1997,  
18 C4C received tax exempt status from the Internal Revenue Service (IRS), pursuant to Section  
19 501(c)(3) of the Internal Revenue Code, 26 U.S.C § 501(c)(3), and from the Franchise Tax Board  
20 (FTB), pursuant to section 23701(f) of the California Revenue and Taxation Code, based on its  
21 representations that it would operate as a charitable organization. C4C's Articles of Incorporation  
22 state that C4C's specific charitable purpose is: "to promote, simplify, and implement the process  
23 of accepting donations including cars, trucks, boats, merchandise and real estate to benefit the  
24 donor's qualified charity of choice by providing a service of acquiring donated property for  
25 qualified charities" and further provide that: "no part of the net income or assets of the  
26 organization shall ever inure to the benefit of any director, officer or member thereof or to the  
27 benefit of any private person".

28 7. Revenue and Taxation Code section 23701, subdivision (d), requires that C4C's property  
be irrevocably dedicated to charitable purposes and that no part of its net income or assets may  
inure to the benefit of any director, officer, member or private person. Further, Business and

1 Professions Code section 17510.8 establishes a fiduciary relationship between a charity, or any  
2 person soliciting on behalf of a charity, and the person from whom a charitable contribution is  
3 being solicited. It also provides that the acceptance of a charitable contribution by a charity, or  
4 any person soliciting on behalf of a charity, establishes a charitable trust and a duty to use the  
5 charitable contribution for the declared charitable purposes for which it was sought.

6 8. Patti Livingston (LIVINGSTON), an individual, is on information and belief a resident of  
7 the County of Ventura, California. At all times relevant, LIVINGSTON was and is the  
8 compensated president of C4C's board of directors and an officer and/or director of C4C, and  
9 owed fiduciary duties of care and loyalty to C4C and its charitable beneficiaries. Individually and  
10 in concert with others, LIVINGSTON formulated, directed, controlled, or participated in the acts  
11 and practices of C4C as set forth herein. LIVINGSTON at all relevant times had the authority to  
12 control, and has controlled, the conduct of C4C. Among other things, she has hired  
13 employees/independent contractors, signed contracts, hired fundraisers, approved telemarketing  
14 scripts, advertisements and other solicitation materials, and overseen the financial affairs of C4C.  
LIVINGSTON has personally profited from the unlawful and deceptive acts alleged herein.

15 9. Pat Jessup (JESSUP), an individual, is on information and belief a resident of the County  
16 of Ventura, California. JESSUP is LIVINGSTON's mother. At all times relevant, JESSUP was  
17 and is the compensated Executive Director of C4C and an officer and/or director of C4C, and  
18 owed fiduciary duties of care and loyalty to C4C and its charitable beneficiaries. . Individually  
19 and in concert with others, she formulated, directed, controlled, or participated in the acts and  
20 practices of C4C as set forth herein. Among other things, JESSUP hired employees/independent  
21 contractors, approved telemarketing scripts and other fundraising materials, and oversaw the  
22 financial affairs of C4C. JESSUP has personally profited from the unlawful and deceptive acts  
alleged herein.

23 10. Lindsay and Company, LLP Certified Public Accountants (LINDSAY), is a California  
24 limited liability partnership. At all times relevant LINDSAY served as C4C's accounting firm  
25 and owed fiduciary duties of care and loyalty to C4C. LINDSAY had access to and reviewed and  
26 approved C4C's books and records of its financial accounts, and it advised and facilitated the  
27 unlawful and deceptive acts and practices of C4C alleged herein, including but not limited to  
28 C4C's deceptive methods of reporting, and/or concealing, expense obligations on financial

1 statements, tax returns and advertising statements made to prospective donors. Individually and  
2 in concert with others, LINDSAY has formulated, directed, controlled, approved and/or  
3 participated in the acts and practices of C4C as set forth herein. LINDSAY has personally  
4 profited from the unlawful and deceptive acts alleged herein.

5 11. Maria Berntson (BERNTSON), an individual, is a resident of Ventura County, California.  
6 BERNTSON is a partner of LINDSAY and since at least 2009, served as C4C's lead accountant  
7 and owed fiduciary duties of care and loyalty to C4C. BERNTSON had access to and reviewed  
8 and approved C4C's books and records of its financial accounts, and she advised and facilitated  
9 the unlawful and deceptive acts and practices of C4C alleged herein, including but not limited to  
10 C4C's deceptive methods of reporting, and/or concealing, expense obligations on financial  
11 statements, tax returns and advertising statements made to prospective donors. Individually and  
12 in concert with others, she has formulated, directed, controlled, or participated in the acts and  
13 practices of C4C as set forth herein. Among other things she has prepared and signed tax  
14 documents, prepared and signed audited financial statements, and advised and overseen the  
15 financial affairs of C4C. BERNTSON has personally profited from the deception alleged herein.

16 12. Matthew Smith (SMITH), an individual, on information and belief is a resident of Los  
17 Angeles County, California. At all times relevant SMITH was an officer and/or director and/or  
18 compensated executive of C4C, and as such owed fiduciary duties of care and loyalty to C4C and  
19 its charitable beneficiaries. Individually and in concert with others, SMITH has formulated,  
20 directed, controlled, or participated in the acts and practices of C4C as set forth herein. Among  
21 other things, he has designed solicitation materials, hired independent contractors, and advised  
22 and overseen the financial affairs of C4C. SMITH, directly and through MMI Capital  
23 Corporation, has personally profited from the unlawful and deceptive acts alleged herein.

24 13. MMI Capital Corporation (MMI) is a foreign for-profit corporation incorporated in the  
25 State of Nevada with its principal place of business in California. MMI is owned and/or operated  
26 by SMITH. Since at least 2009, with the advice and approval of SMITH, C4C retained and  
27 compensated MMI to design, approve and control the content of C4C's charitable solicitations,  
28 serve as its fundraising counsel, and oversee and approve the financial affairs of C4C. MMI was  
never registered in California as a commercial fundraiser or fundraising counsel and thus could  
not legally operate, or be compensated, as such. MMI owed fiduciary duties of care and loyalty

1 to C4C and its donors. MMI has personally profited from the unlawful and deceptive acts alleged  
2 herein.

3 14. DOES 1-100, inclusive, are the fictitious names of defendants who have acted as directors,  
4 officers, trustees, agents, or employees of defendants, or who have participated or acted in concert  
5 with one or more of the defendants, or who have acted on behalf of or as agent, servant, employee  
6 or co-conspirator of one or more of the defendants, but whose true names and capacities, whether  
7 individual, corporate or otherwise, are presently unknown to Plaintiff. Plaintiff is informed and  
8 believes that defendants DOES 1- 100 have directly or indirectly participated in and are  
9 responsible for the acts and omissions that are more specifically described in this complaint.  
10 Because Plaintiff is presently uninformed as to the true names and capacities of these defendants,  
11 THE PEOPLE sue them by their fictitious names but will seek leave to amend the Complaint  
12 when their true names are discovered.

13 15. Hereafter, when referred to collectively, LIVINGSTON, JESSUP and SMITH are the  
14 "OFFICER/DIRECTOR DEFENDANTS", and when referred to collectively, the OFFICER/  
15 DIRECTOR DEFENDANTS, C4C, MMI, BERNTSON, LINDSAY, and DOES 1-100 are the  
16 "Defendants".

#### 17 JURISDICTION AND VENUE

18 16. At all times relevant herein, Defendants and each of them transacted business in the  
19 County of Ventura and elsewhere in the State of California. The violations of law hereinafter  
20 described have been and are now being carried out, in part, within and from said county and  
21 throughout the State of California. This Court has jurisdiction pursuant to Article VI, section 10  
22 of the California Constitution and section 393 of the Code of Civil Procedure.

#### 23 GENERAL ALLEGATIONS

24 17. Whenever reference is made in this Complaint to any act of any corporate or other  
25 business defendant, such allegation shall mean that said defendant and its owners, officers,  
26 directors, agents, employees, or representatives did or authorized such acts while engaged in the  
27 management, direction, or control of the affairs of defendants and while acting within the scope  
28 and course of their duties.

1 18. Whenever reference is made in this Complaint to any act of defendants, such allegation  
2 shall mean that each defendant acted individually and jointly with the other defendants named in  
3 that cause of action.

4 19. Whenever reference is made in this Complaint to any act of any individual defendant,  
5 such allegation shall be deemed to mean that said defendant is and was acting (a) as a principal,  
6 (b) under express or implied agency, and/or (c) with actual or ostensible authority to perform the  
7 acts so alleged on behalf of every other defendant.

8 20. C4C advertises itself as "the charity that gives to charities". C4C claims to provide the  
9 charitable service of accepting donated vehicles, selling them, and giving the proceeds to other  
10 charities as designated by the vehicles' donors.

11 21. Plaintiff is informed and believes and thereon alleges that Defendants kept and spent  
12 millions of dollars in donations that they should have given to other charities. By their own  
13 accountings, C4C currently owes about \$2 million dollars to thousands of charities, and lacks the  
14 ability to pay it back. Plaintiff is informed and believes that Defendants have employed  
15 accounting methods specifically designed to understate their charitable payment obligations, and  
16 that the true figure owed to charities is even greater.

17 22. Plaintiff is informed and believes and thereon alleges that Defendants made false and  
18 misleading charitable solicitations to the public. In internet and radio ads, regulatory filings, and  
19 tax materials, the Defendants portrayed C4C as an active, successful charity that could be  
20 depended upon to provide reasonably prompt, direct support to other charities. This was false.  
21 Millions of dollars in donors' contributions have not benefitted any charity, but have instead  
22 benefitted C4C and the Officer/Director Defendants. This diversion of charitable funds has  
23 deceived the public and wasted millions of dollars that should have been given to legitimate  
24 charities with genuine charitable programs.

25 23. Plaintiff is informed and believes and thereon alleges that the OFFICER/DIRECTOR  
26 DEFENDANTS paid themselves and their friends and families at the expense of legitimate  
27 charities. C4C currently employs or compensates, or has in the past employed or compensated:  
28 LIVINGSTON; LIVINGSTON's mother, JESSUP; LIVINGSTON's ex-husband, and his  
companies; LIVINGSTON's sister, Lorraine Lance; and LIVINGSTON's father, Bob Jessup.

1 C4C also hired SMITH's company, MMI, and SMITH's friend's company ISBX. Lance, MMI,  
2 and ISBX were all paid to do the same, or substantially similar, work – online fundraising. Over  
3 the relevant period, C4C paid over \$800,000 to MMI, over \$650,000 to Lance, and over \$1.6  
4 million to ISBX.

5 24. Plaintiff is informed and believes and thereon alleges that C4C paid its advertisers  
6 millions of dollars to ensure that its false and misleading solicitations would “follow” potential  
7 donors around the Internet. These ads cost C4C a substantial amount of its total income; but  
8 Defendants obscured this fact from donors through misrepresentations in solicitations and  
9 deceptive financial reporting.

10 25. Via internet and radio advertisements, C4C's own website, and telemarketing solicitations,  
11 C4C told donors that between 70 and 90 percent of the net proceeds of donated vehicles would go  
12 directly to the donor's chosen charity. This was false. C4C's solicitations contained multiple  
13 false and misleading statements with the purpose of influencing prospective donors to donate to  
14 C4C. Defendants also created a website located at: <http://cars4causes.net>, which solicited  
15 donations using false and misleading statements.

16 26. At all times relevant, in financial statements, filed reports, and other documents that were  
17 intended either to be viewed by prospective donors or referred to in C4C's advertisements and  
18 relied on by prospective donors, Defendants have deceptively reported C4C's advertising and  
19 other operating costs as if they were donations made to other charities. This misrepresentation  
20 significantly overstated the proportion of donated funds to be forwarded to other charities and  
21 created the illusion that C4C spent donors' money properly. For example, C4C's IRS Form 990  
22 for the reporting year 2013 reported that C4C received over \$5 million in donated vehicles and  
23 distributed over \$2 million as “grants” to other charities. However, of that \$2 million in “grants”,  
24 over \$1.5 million was reported as “indirect contributions” that were reportedly “distributed to”  
25 other charities. In truth, not one charity received a single penny of this money; the \$1.5 million  
26 was spent on C4C's fundraising and operating expenses. Of the \$5 million in donated vehicles  
27 received by C4C for the reporting year 2013, less than \$500,000 was actually distributed to other  
28 charities—less than ten percent of the proceeds generated, and far less than what was promised to  
prospective donors.



1 27. The circumstances set forth in paragraphs 22 - 26 above constitute material facts that  
2 Defendants knew or reasonably should have known could influence a prospective donor's choice  
3 to donate a vehicle to C4C, rather than to one of the many other vehicle-donation charities.  
4 Defendants intentionally concealed or misrepresented this information in advertisements and  
5 other communications with prospective donors to steer their donations to C4C and away from  
6 other competing organizations. Defendants kept C4C in business at the expense of other charities,  
7 so they could pay themselves, their companies, their friends, and their relatives.

8 28. From at lease January 1, 2006, Defendants have committed and continue to commit the  
9 breaches of fiduciary duty, violations of trust, violations of law, and other wrongful acts and  
10 omissions as alleged in this Complaint. To preserve charitable assets and to prevent waste,  
11 dissipation, and loss of charitable assets in this State to the irreparable damage of Plaintiff, the  
12 People of the State of California, it is necessary that the requested injunctive relief be granted.

13 **FIRST CAUSE OF ACTION**

14 **BREACH OF FIDUCIARY DUTY**

15 **(Against Defendants LIVINGSTON, JESSUP, and SMITH and DOES 1 through 100)**

16 29. Plaintiff re-alleges and incorporates by reference as though fully set forth herein each of  
17 the allegations of Paragraphs 1-28 of this Complaint.

18 30. Plaintiff is informed and believes and thereon alleges that at all times relevant herein,  
19 LIVINGSTON, JESSUP, and SMITH, were officers and/or directors of C4C and owed fiduciary  
20 duties of due care and loyalty to C4C. Plaintiff is further informed and believes, and thereon  
21 alleges, that each of the aforementioned defendants breached their duties of care and loyalty to  
22 C4C by engaging in, participating in, aiding and abetting, and facilitating unlawful actions, or  
23 omissions, including, but not limited to, the acts or omissions alleged in paragraphs 35-95 in  
24 violation of common law trust principles and state statutes (including, but not limited to,  
25 Corporations Code sections 5231 and 5233):

- 26 (a) Engaging in a scheme to improperly and unlawfully divert substantial charitable  
27 assets through contracts with, and/or payments to, MMI, ISBX, and Lorraine  
28 Lance;

- 1 (b) Causing substantial charitable funds to be improperly and unlawfully diverted for
- 2 the personal benefit of LIVINGSTON, JESSUP, SMITH, and others;
- 3 (c) Failing to ensure that C4C's activities and operations were conducted in
- 4 furtherance of their stated charitable purposes;
- 5 (d) Causing or allowing C4C to enter into contracts with commercial fundraisers
- 6 and/or fundraising counsel that were not in C4C's best interests;
- 7 (e) Engaging in or allowing self-dealing transactions in violation of Corporations
- 8 Code section 5233;
- 9 (f) Causing or allowing C4C to engage in unlawful activities through the use of
- 10 unregistered commercial fundraisers for charitable purposes and/or fundraising
- 11 counsel;
- 12 (g) Causing or allowing C4C and their commercial fundraisers/fundraising counsel to
- 13 engage in misleading and deceptive solicitation practices, including the
- 14 dissemination of false information to donors;
- 15 (h) Causing or allowing C4C to make false statements in their annual financial
- 16 statements;
- 17 (i) Causing or allowing C4C to make false statements in documents filed with
- 18 governmental agencies;
- 19 (j) Causing or allowing C4C to conduct solicitation campaigns in violation of
- 20 Government Code section 12599.6 as more specifically described in Paragraphs
- 21 52-56 below, which are incorporated by reference; and
- 22 (k) Failing to observe corporate formalities as required by law and by C4C's bylaws.

23 31. At all times relevant herein, the OFFICER/DIRECTOR DEFENDANTS named in this  
24 cause of action failed to act in good faith, in the best interests of C4C, and with such care as an  
25 ordinarily prudent person in a like position would use under similar circumstances.

26 32. As a proximate cause of the breaches of fiduciary duty of care and loyalty of  
27 LIVINGSTON, JESSUP, SMITH, and DOES 1 through 100, C4C and its charitable beneficiaries  
28 incurred damages and civil penalties in an amount presently unknown to the Attorney General  
and which cannot be ascertained without an accounting by these defendants. The facts necessary  
to ascertain the exact amount of damages to C4C and its charitable beneficiaries are within the  
special knowledge of the aforementioned defendants. However, the People estimates the total

1 damages proximately caused by the actions and omissions of the Defendants set forth in this  
2 cause of action exceed \$10 million.

3 33. The acts as alleged in this cause of action were willful, wanton, malicious and oppressive  
4 and were undertaken with the intent to defraud C4C, its charitable beneficiaries, and its potential  
5 donors and thus justify the awarding of exemplary and punitive damages against Defendants.

6 34. By reason of the acts alleged in this cause of action, the OFFICER/DIRECTOR  
7 DEFENDANTS failed to comply with the trust that they assumed and departed from the public  
8 and charitable purposes that they were bound to serve. To preserve and conserve the assets of  
9 C4C, and to prevent waste, dissipation and loss of charitable assets, and to prevent further  
10 misrepresentations to the donating public in this and other states, it is necessary that the injunctive  
11 relief prayed for, including, but not limited to, the permanent removal of the  
12 OFFICER/DIRECTOR DEFENDANTS as officers and directors of C4C, be granted.

13 35. Plaintiff is also entitled to payment of its attorney fees and costs on this cause of action.

14 **SECOND CAUSE OF ACTION**

15 **AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY**

16 **(Against Defendants BERNTSON, LINDSAY AND COMPANY, and DOES 1-100)**

17 36. Plaintiff re-alleges and incorporates by reference each and every allegation contained in  
18 Paragraphs 2-35.

19 37. As set forth in Paragraph 31, above, the OFFICER/DIRECTOR DEFENDANTS breached  
20 their fiduciary duty of care to C4C.

21 38. Plaintiff is informed and believes and thereon alleges that BERNTSON, LINDSAY, and  
22 DOES 1-100 aided and abetted the breach of duty of the OFFICER/DIRECTOR DEFENDANTS  
23 as alleged in Paragraph 31, above, by preparing and filing false and misleading reports with the  
24 IRS and the Attorney General's Registry of Charitable Trusts, and by causing the reports to be  
25 disseminated to the donating public. These defendants knew or should have known that the  
26 information in these returns was false and that the filing of the returns was unlawful. These  
27 defendants knew or should have known that the deceptive accounting methods, that were  
28 employed after their approval, were likely to mislead potential donors and others into believing

1 C4C made donations to other charities that it did not make, and/or in amounts greater than as  
2 represented.

3 39. Plaintiff is informed and believes and thereon alleges that BERNTSON, LINDSAY, and  
4 DOES 1-100 also aided and abetted the breach of duty of the OFFICER/DIRECTOR  
5 DEFENDANTS as alleged in Paragraph 31, above, by defending C4C's deceptive accounting  
6 procedures to the IRS and other government agencies. These Defendants knew or should have  
7 known that accounting procedures were employed retroactively in bad faith for the purpose of  
8 defrauding C4C's charitable beneficiaries. These defendants knew or should have known that the  
9 deceptive accounting methods used with the help of these defendants, were likely to mislead  
10 potential donors and others into believing C4C made donations to other charities that it did not  
11 make, and/or in amounts greater than as represented. Plaintiff is informed and believes and  
12 thereon alleges that BERNTSON, LINDSAY, and DOES 1-100 aided and abetted and/or  
13 participated in the breach of duty of the OFFICER/ DIRECTOR DEFENDANTS for the purpose  
14 of advancing their own interests or financial advantage.

15 40. As a proximate result of the aiding and abetting and/or participating in the breach of duty  
16 of defendants as alleged in this cause of action, C4C and its charitable beneficiaries have been  
17 damaged in an amount presently unknown to plaintiff but believed to be in excess of \$280,000.

18 41. In doing the acts alleged in this cause of action, BERNTSON, LINDSAY, and DOES 1-  
19 100 acted in callous disregard of the rights of C4C, its charitable beneficiaries, and its donors  
20 knowing that their conduct was substantially certain to injure them. In doing the acts alleged in  
21 this cause of action, defendants and each of them engaged in fraudulent, oppressive and malicious  
22 conduct and plaintiff is, therefore, entitled to an award of punitive damages in an amount to be  
23 decided at the time of trial.

24 42. Plaintiff is also entitled to its attorney fees and costs on this cause of action.

### **THIRD CAUSE OF ACTION**

#### **DECEPTIVE AND MISLEADING SOLICITATIONS, IN VIOLATION OF GOVERNMENT CODE SECTION 12599.6**

**(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

1 43. Plaintiff re-alleges and incorporates by reference each and every allegation contained in  
2 Paragraphs 2-42.

3 44. Pursuant to Government Code section 12599.6, charitable organizations and their  
4 commercial fundraisers are prohibited from misrepresenting the purpose or beneficiary of a  
5 charitable solicitation. Charitable organizations and commercial fundraisers are prohibited from  
6 using any unfair or deceptive practices or engaging in fraudulent conduct that creates a likelihood  
7 of confusion or misunderstanding. Charitable organizations and commercial fundraisers are also  
8 prohibited from misrepresenting that the charitable organization will receive an amount greater  
9 than the actual net proceeds reasonably estimated to be retained by the charity for its charitable  
10 purposes. Charitable organizations must establish and exercise control over their fundraising  
11 activities and must assure that their fundraising activities are conducted without coercion.

12 45. Plaintiff is informed and believes and thereon alleges that the OFFICER/DIRECTOR  
13 DEFENDANTS, MMI, and DOES 1-100 organized, managed, directed and/or executed C4C's  
14 solicitation campaigns in a manner that violated state laws and confused and deceived actual and  
15 potential donors. As officers and/or directors of C4C, the OFFICER/DIRECTOR  
16 DEFENDANTS were responsible for the fundraising activities of C4C. Plaintiff is informed and  
17 believes and thereon alleges that defendants authorized misleading solicitation materials that  
18 concealed material facts and made false representations as to how the donations would be used by  
19 C4C. Defendants also failed to exercise adequate control over C4C's fundraising activities.  
20 Defendants executed deceptive and fraudulent solicitation campaigns throughout California and  
21 the United States and obtained donations and payments from California residents and others on  
22 behalf of C4C.

23 46. Plaintiff is informed and believes and thereon alleges that at all times relevant the unfair  
24 or deceptive acts or practices and fraudulent conduct of the defendants named in this cause of  
25 action and DOES 1-100 that created a likelihood of confusion or misunderstanding on the part of  
26 donors include, but are not limited to, the following:

- 27 (a) Advertising C4C as "The Charity That Gives to Charities" when they maintained a  
28 significant, persistent, and growing unpaid debt of hundreds of thousands of  
dollars to hundreds of charitable beneficiaries that was not backed by sufficient  
assets;

- 1 (b) Advertising C4C as “America’s most trusted and recognized choice for turning  
2 your tax deductible vehicle donation into cash for your favorite charity.” In reality,  
3 C4C had been repeatedly investigated for their deceptive practices and was the  
4 subject of many complaints.
- 5 (c) Advertising C4C as “An Actual Charity. Not an Expensive Fundraiser” when, in  
6 reality, C4C spent the overwhelming percentage of would-be donations on  
7 fundraising.
- 8 (d) Defendants created the false impression that it donated services necessary to sell  
9 the vehicles. In reality C4C billed its charitable beneficiaries for every cost  
10 associated with the donation.

11 47. The Defendants’ conduct alleged in this cause of action violates Government Code section  
12 12599.6. Plaintiff is entitled to damages, injunctive relief, civil penalties, attorneys fees, and  
13 costs.

14 **FOURTH CAUSE OF ACTION**

15 **BREACH OF FIDUCIARY DUTY RELATED TO SOLICITATIONS, IN VIOLATION  
16 OF BUSINESS AND PROFESSIONS CODE SECTION 17510.8**

17 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

18 48. Plaintiff re-alleges and incorporates by reference each and every allegation contained in  
19 Paragraphs 2-47.

20 49. Defendants have a fiduciary relationship with the donors from whom they solicit. This  
21 fiduciary relationship is established by statute (Bus. & Prof. Code, §17510.8 and Gov. Code,  
22 §12599), by common law, and by agreement.

23 50. C4C accepted charitable contributions. The acceptance of those donations established a  
24 charitable trust and a fiduciary duty on the part of the OFFICER DIRECTOR DEFENDANTS,  
25 C4C, and DOES 1-100 to ensure that the donations were used for the purposes stated during the  
26 solicitation as required by Business and Professions Code section 17510.8.

27 51. Plaintiff is informed and believes and thereon alleges that defendants breached their  
28 fiduciary duty by failing to ensure that donations to C4C were properly used for the purposes for  
which they were solicited. Donors were told in advertisements, on the C4C website, and/or orally

1 that a substantial portion of their donations would benefit the charity of their choice or other  
2 legitimate charitable programs. Plaintiff is informed and believes and thereon alleges that only a  
3 nominal amount of the donated funds, or no funds at all, were actually forwarded for those  
4 charitable purposes as represented. Instead, nearly all of the funds solicited were spent on other  
5 purposes, like fundraising or the personal benefit of the OFFICER/DIRECTOR DEFENDANTS  
6 and others.

7 52. Plaintiff is informed and believes and thereon alleges that defendants' breach of fiduciary  
8 duty proximately caused C4C and its charitable beneficiaries to be damaged in that their  
9 donations were used for purposes other than the purposes for which they were made. C4C and its  
10 charitable beneficiaries have been damaged in an amount presently unknown to the Attorney  
11 General and which cannot be ascertained without an accounting by defendants. The facts  
12 necessary to ascertain the exact amount of damages are within the special knowledge of the  
13 Defendants.

14 53. The Attorney General has authority to remedy the breach of fiduciary duty of the  
15 Defendants pursuant to Corporations Code sections 5142, subdivision (a)(5) and 5250,  
16 Government Code section 12598, Business and Professions Code section 17510.8, and common  
17 law. The Attorney General has authority to remedy the breach of fiduciary duty of MMI, and  
18 DOES 1-100, pursuant to Government Code sections 12598 and 12599, subdivision (g), Business  
19 and Professions Code section 17510.8, and common law. Plaintiff is entitled to an accounting,  
20 damages, injunctive relief, civil penalties, attorneys fees, and costs.

#### 21 **FIFTH CAUSE OF ACTION**

#### 22 **UNTRUE OR MISLEADING STATEMENTS IN VIOLATION OF BUSINESS & 23 PROFESSIONS CODE § 17500, ET SEQ.**

24 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

25 54. Plaintiff re-alleges and incorporates by reference each and every allegation contained in  
26 Paragraphs 2-53.

27 55. Plaintiff is informed and believes and thereon alleges that within the last three (3) years  
28 Defendants have engaged in and continue to engage in, aided and abetted and continue to aid and

1 abet, and conspired to and continue to conspire to engage in acts or practices that constitute  
2 violations of Business and Professions Code section 17500 et seq., by making or causing to be  
3 made untrue or misleading statements with the intent to induce members of the public to donate  
4 to C4C. Defendants' untrue or misleading statements include, but are not limited to, the  
5 following:

6 (a) Misrepresenting the proportion of net proceeds of a sold vehicle that would be paid  
7 to charity and/or that any amount would be paid at all, and/or that the represented amount would  
8 be paid within a reasonable time;

9 (b) Misrepresenting and failing to disclose to prospective donors the material fact that  
10 C4C had failed to pay, or failed to timely pay, the proceeds from prior donated vehicles owed to  
11 prior donors' designated charities as promised to those donors;

12 (c) Making false or misleading statements, including the statements set forth in  
13 Paragraph 46, above, regarding services offered by C4C and statements connected with C4C's  
14 fundraising and operating costs, statements which Defendants and each of them knew, or  
15 reasonably should have known, were untrue or misleading at the time the statements were made.

16 56. At the time the untrue or misleading statements set forth in Paragraph 55 were made,  
17 Defendants knew or by the exercise of reasonable care should have known that the statements  
18 were untrue or misleading.

19 **SIXTH CAUSE OF ACTION**

20 **ENGAGING IN SELF-DEALING TRANSACTIONS IN VIOLATION OF**  
21 **CORPORATIONS CODE 5233**

22 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

23 57. Plaintiff re-alleges and incorporates by reference as though fully set forth herein each of  
24 the allegations of paragraphs 2-56 of this Complaint.

25 **1) MMI Capital Corporation**

26 58. Plaintiff is informed and believes and thereon alleges that the agreements C4C entered  
27  
28



1 into with MMI during the period of 2008 to the present constituted self-dealing transactions as to  
2 SMITH within the meaning of Corporations Code section 5233 and no exception set forth in that  
3 section is applicable. At the time C4C entered into the agreements, SMITH was an officer of  
4 C4C and had a material financial interest in the agreements because he was the president of MMI.  
5 Defendants knew or should have known of SMITH's material financial interest in the contracts  
6 and agreements. Alternatively, if they did not know, SMITH wrongfully concealed that fact from  
7 them, acted in bad faith, and breached his duty of loyalty to C4C. The agreements were not  
8 approved by the California Attorney General and they were not fair and reasonable to C4C at the  
9 time they occurred.

9 59. Pursuant to section 5233, plaintiff is entitled to an accounting from SMITH for any profits  
10 or other benefits he made/received from the agreements and he must be ordered to pay them to  
11 C4C. To the extent C4C suffered any damages as a proximate result of the agreements, SMITH  
12 must pay those damages to C4C.

13 60. SMITH's actions related to C4C's agreements with MMI covering the time frame from at  
14 least 2009 to June 2014 were fraudulent and thus justify an award of punitive damages according  
15 to proof.

16 61. Plaintiff is also entitled to payment of its attorney fees and costs on this cause of action.

### 17 SEVENTH CAUSE OF ACTION

#### 18 **UNJUST ENRICHMENT / WRONGFUL ACQUISITION OF PROPERTY IN** 19 **VIOLATION OF CIVIL CODE SECTION 2224**

20 **(Against Defendants LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

21 62. Plaintiff re-alleges and incorporates by reference as though fully set forth herein each of  
22 the allegations of paragraphs 2-61 of this Complaint.

23 63. Plaintiff is informed and believes and thereon alleges that LIVINGSTON's total  
24 compensation (including salary, bonuses, and retirement benefits) for the period from at least  
25 2005 - 2014, was unreasonable and excessive, in violation of Corporations Code section 5235 and  
26 common law.  
27  
28

1 64. Plaintiff is informed and believes and thereon alleges that LIVINGSTON acquired the  
2 excessive and unreasonable total compensation alleged in paragraph 64 above, as a result of a  
3 breach of trust of the OFFICER/DIRECTOR DEFENDANTS. The total amount of excessive and  
4 unreasonable total compensation paid to LIVINGSTON is presently unknown but is believed to  
5 be in excess of \$1 million. As a result of the breach of trust, LIVINGSTON was unjustly  
6 enriched and C4C's charitable beneficiaries were injured. By virtue of the breach of trust,  
7 LIVINGSTON holds all excessive and unreasonable compensation she received from C4C as a  
8 constructive trustee for the benefit of C4C. LIVINGSTON must make full restitution by paying  
9 all such compensation back to C4C, for the benefit of C4C's charitable beneficiaries.

10 65. Plaintiff is informed and believes and thereon alleges that JESSUP's total compensation  
11 (including base salary, bonuses and retirements benefits) for the period from at least 2005, to the  
12 present was unreasonable and excessive, in violation of Corporations Code section 5235 and  
13 common law.

14 66. Plaintiff is informed and believes and thereon alleges that JESSUP acquired the excessive  
15 and unreasonable compensation alleged in paragraph 66, above, as a result of a breach of trust of  
16 the OFFICER/DIRECTOR DEFENDANTS. The total amount of excessive and unreasonable  
17 compensation paid to JESSUP is presently unknown but is believed to be in excess of \$1 million.  
18 As a result of the breach of trust, JESSUP was unjustly enriched and C4C's charitable  
19 beneficiaries were injured. By virtue of the breach of trust, JESSUP holds all excessive and  
20 unreasonable compensation she received from C4C as a constructive trustee for the benefit of  
21 C4C. JESSUP must make full restitution by paying all such compensation back to C4C, for the  
22 benefit of C4C's charitable beneficiaries.

23 67. Plaintiff is informed and believes and thereon alleges that after 2008, as a result of the  
24 breach of trust of the OFFICER/DIRECTOR DEFENDANTS, SMITH was also unjustly enriched  
25 in excess of \$847,000 as a result of payments made from C4C to SMITH's company, MMI  
26 Capital, in violation of SMITH's duty of loyalty to C4C. By virtue of the breach of trust, SMITH  
27 holds all excessive compensation he received from C4C as a constructive trustee for the benefit of  
28 C4C. He must make full restitution by paying all such compensation back to C4C for the benefit  
of C4C's charitable beneficiaries.

1 68. Plaintiff is informed and believes and thereon alleges that after 2008, as a result of the  
2 breach of trust of the OFFICER/DIRECTOR DEFENDANTS, MMI was unjustly enriched in the  
3 amount of at least \$800,000 as a result of payments made from C4C to MMI in violation of the  
4 OFFICER/DIRECTOR DEFENDANTS duty of loyalty to C4C. By virtue of the breach of trust,  
5 MMI holds all excessive payments it received from C4C as a constructive trustee for the benefit  
6 of C4C. MMI must make full restitution by paying all such payments back to C4C for the benefit  
7 of C4C's charitable beneficiaries.

8 69. Plaintiff is informed and believes and thereon alleges that as a result of the breach of trust  
9 of the OFFICER/DIRECTOR DEFENDANTS, DOES 1-100 were unjustly enriched in an amount  
10 presently unknown as a result of payments made from C4C to DOES 1-100 in violation of the  
11 OFFICER/DIRECTOR DEFENDANTS' duty of loyalty to C4C. By virtue of the breach of trust,  
12 DOES 1-100 hold all excessive payments received from C4C as a constructive trustee for the  
13 benefit of C4C. DOES -100 must make full restitution by paying all such payments back to C4C  
14 for the benefit of C4C's charitable beneficiaries.

15 70. Plaintiff is also entitled to payment of its attorney fees and costs on this cause of action.

### 16 **EIGHTH CAUSE OF ACTION**

#### 17 **BREACH OF CHARITABLE TRUST**

18 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100)**

19 71. Plaintiff re-alleges and incorporates by reference as though fully set forth herein each of  
20 the allegations of paragraphs 2-70 of this Complaint.

21 72. As a nonprofit public benefit corporation, C4C holds all of its funds and other assets in  
22 trust for charitable purposes. The property of C4C is irrevocably dedicated to charitable purposes  
23 and no part of the net income or assets may inure to the benefit of any director, officer, member  
24 or private person. Pursuant to Corporations Code section 5142, the Attorney General may bring  
25 an action to enjoin, correct, obtain damages for, or otherwise remedy a breach of a charitable trust.

26 73. C4C accepted charitable contributions on behalf of the charitable beneficiaries of C4C.  
27 The acceptance of those donations established a charitable trust and a fiduciary duty on the part of  
28

1 defendants to ensure that the donations were used for the purposes stated during the solicitation as  
2 required by Business and Professions Code section 17510.8.

3 74. The defendants committed breaches of the charitable trust by using charitable assets for  
4 other purposes. Plaintiff is informed and believes and thereon alleges that defendants further  
5 committed breaches of the charitable trust by their improper use of charitable assets, including  
6 improper self-dealing transactions and the following:

- 7 (a) Payments to unregistered commercial fundraisers or fundraising counsel;
- 8 (b) Payment of charitable funds to SMITH and MMI;
- 9 (c) Payment of charitable funds to Lorraine Lance;
- 10 (d) Other expenditures by C4C for the personal benefit of the officers, directors,  
11 employees and others.

12 75. LIVINGSTON, JESSUP, SMITH, MMI, and DOES 1-100, are also liable as recipients of  
13 funds subject to a charitable trust.

14 76. As a proximate result of the breaches of trust by OFFICER DIRECTOR DEFENDANTS  
15 and DOES 1-100, C4C and their charitable beneficiaries have been damaged in an amount  
16 presently unknown to the Attorney General and which cannot be ascertained without an  
17 accounting by all defendants. The facts necessary to ascertain the exact amount of damages  
18 owing to the C4C and their charitable beneficiaries are within the special knowledge of the  
19 defendants. However, the Attorney General estimates the total damages proximately caused by  
20 defendants' actions and omissions exceed \$10 million.

21 77. The actions of Defendants, as alleged above, were willful, wanton, malicious, and  
22 oppressive and were undertaken with the intent to defraud C4C, their donors, their charitable  
23 beneficiaries, and the general public beneficiaries of charity and thus justify the awarding of  
24 exemplary and punitive damages.

#### 25 NINTH CAUSE OF ACTION

#### 26 **ENGAGING IN UNFAIR COMPETITION IN VIOLATION OF 27 BUSINESS AND PROFESSIONS CODE SECTION 17200 ET SEQ.**

28 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, MMI and DOES 1-100)**

78. Plaintiff re-alleges and incorporates by reference as though fully set forth herein each of

1 the allegations of paragraphs 2-77 of this Complaint.

2  
3 79. Plaintiff is informed and believes and thereon alleges that within the past four years,  
4 Defendants violated Business and Professions Code section 17200 et seq. by engaging in  
5 unlawful acts or practices in the conduct of a business, which acts or practices constitute unfair  
6 competition within the meaning of section 17200 of the Business and Professions Code. Such  
7 acts or practices include, but are not limited to, violating Business and Professions Code section  
8 17500, as more specifically alleged in the fifth cause of action, and otherwise making false,  
9 deceptive, and misleading statements to donors to induce them to make charitable contributions to  
10 C4C. Defendants also engaged in unfair competition by misappropriating charitable assets and  
11 failing to comply with reporting and recordkeeping requirements. Defendants also committed  
12 and continue to commit acts of unfair competition including, but not limited to, the following:

- 13 (a) Misrepresenting, explicitly or implicitly, the percentage or amount of charitable  
14 contributions that would go to the donor's designated charity, and/or that any  
15 amount would be paid at all, and/or that the represented amount would be paid  
16 within a reasonable time;
- 17 (b) Misrepresenting, explicitly or implicitly, the percentage or amount of charitable  
18 contributions that would be used for charitable programs;
- 19 (c) Misrepresenting the charitable purposes of C4C;
- 20 (d) Misrepresenting how and where charitable donations would be used;
- 21 (e) Breaching their fiduciary duty to donors, their charitable beneficiaries, and the  
22 public beneficiaries of charity by failing to ensure that the donations were used for  
23 the purposes for which they were solicited;
- 24 (f) Using donations for purposes other than the purposes for which the donations were  
25 donated;
- 26 (g) Use of unregistered commercial fundraisers or fundraising counsel for charitable  
27 purposes;
- 28 (h) Engaging in or allowing improper self-dealing transactions by C4C;
- (i) Failing to maintain complete and accurate corporate records of C4C;
- (j) Making false or misleading statements in C4C's financial statements;
- (k) Making false or misleading statements in C4C's informational returns;

- 1 (l) Making false or misleading statements in documents filed by C4C with the
- 2 Attorney General's Registry of Charitable Trust; and
- 3 (m) Failure by MMI to comply with registration and reporting requirements.

4 80. Defendants, in engaging in and participating in the acts of unfair competition as alleged in  
5 Paragraph 79, violated the following statutes and regulations:

- 6 (a) Government Code section 12586;
- 7 (b) Government Code section 12591.1;
- 8 (c) Government Code section 12599.1;
- 9 (d) Government Code section 12599.6;
- 10 (e) Government Code section 12599.8;
- 11 (f) Business and Professions Code section 17500 et seq.
- 12 (g) Business and Professions Code section 17510.8;
- 13 (h) Business and Professions Code section 17510.85;
- 14 (i) Civil Code section 2224;
- 15 (j) Corporations Code section 5227;
- 16 (k) Corporations Code section 5231;
- 17 (l) Corporations Code section 5233;
- 18 (m) Corporations Code section 5235;
- 19 (n) Corporations Code section 6215; and
- 20 (o) Corporations Code section 6320.

21 **TENTH CAUSE OF ACTION**

22 **NEGLIGENCE**

23 **(Against Defendants C4C, LIVINGSTON, JESSUP, SMITH, AND DOES 1-100)**

24 81. Plaintiff re-alleges and incorporates by reference each and every allegation contained in  
25 Paragraphs 2 through 81.

26 82. At all times relevant the OFFICER/DIRECTOR DEFENDANTS voluntarily undertook  
27 the duties and responsibilities of director and/or officer of C4C whether or not formally elected as  
28 director or officer and whether or not they have resigned as such. The voluntary undertaking of

1 these duties and responsibilities created a duty on the part of these defendants to exercise due care  
2 in the performance of those duties and responsibilities.

3 83. The OFFICER/DIRECTOR DEFENDANTS and DOES 1-100 breached the duty of care  
4 they owed to C4C by committing the actions and omissions set forth in Paragraph 80 above, and  
5 committing other actions and omissions of which Plaintiff is currently unaware.

6 84. Plaintiff is informed and believes and thereon alleges that, as a proximate result of the  
7 breach of the duty of care which OFFICER/DIRECTOR DEFENDANTS and DOES 1-100 owed  
8 to C4C as alleged in this cause of action and as a result of the failure of these defendants to  
9 operate C4C in the manner required by law, charitable assets have been improperly diverted from  
10 C4C. C4C and the public beneficiaries of charity have been damaged in an amount presently  
11 unknown to the Attorney General and which cannot be ascertained without an accounting by  
12 defendants. The facts necessary to ascertain the exact amount of damages to C4C and the public  
13 beneficiaries of charity are within the special knowledge of these defendants. The Attorney  
14 General is entitled to an accounting from these defendants for their expenditures and disposition  
15 of all income and assets which they obtained from C4C, or improperly diverted from C4C to one  
16 or more of the other defendants or otherwise wasted through their breach of duty of due care,  
17 fraud, or other wrongful acts. Plaintiff estimates the total damages proximately caused by  
18 defendants' actions and omissions set forth in this cause of action exceed \$10 million. Plaintiff is  
19 also entitled to its attorney fees and costs.

20 85. When C4C, OFFICER/DIRECTOR DEFENDANTS and DOES 1-100, solicited and  
21 accepted donations for Defendant CHARITIES and the public beneficiaries of charity, they owed  
22 a duty of care to the donors to ensure that the donations and funds were used for the specific  
23 charitable purposes for which they were solicited.

24 86. All defendants named in this cause of action and DOES 1-100 breached their fiduciary  
25 duty to the donors by their cooperative efforts that proximately caused the charitable funds  
26 donated to C4C to be improperly diverted for purposes other than the purposes for which the  
27 donations were solicited and made. As a result of that breach of duty, C4C and the public  
28 beneficiaries of charity have been injured, in the aggregate, in an amount presently unknown to  
Plaintiff. The facts necessary for calculation of the receipts and disbursements, and thus the  
amount owed to the public beneficiaries of charity, are within the special knowledge of

1 defendants. The Attorney General is entitled to an accounting from all defendants named in this  
2 cause of action and DOES 1-100 for the receipt and disposition of all donations they obtained on  
3 behalf of C4C. Plaintiff is also entitled to damages, attorney fees and costs.

4 WHEREFORE, the Plaintiff prays for judgment as follows:

5 1. For a preliminary and permanent injunction, enjoining defendants, their employees, agents,  
6 servants, representatives, successors, and assigns, any and all persons acting in concert or  
7 participation with them, and all other persons, corporations, or other entities acting under, by,  
8 through, or on their behalf, from doing any of the following until they have first provided a full  
9 and complete accounting for all funds received by, and disbursed from, any and all financial  
10 accounts of C4C from its inception to the present: (1) expending, disbursing, transferring,  
11 encumbering, withdrawing or otherwise exercising control over any funds received by or on  
12 behalf of C4C or rightfully due C4C except as authorized by the Court; (2) conducting business  
13 of any kind on behalf of, or relating to C4C other than as necessary to assist a Receiver or  
14 appointed director(s), to comply with discovery requests and orders, and as permitted by the  
15 Court; and (3) controlling or directing the operations and affairs of any California nonprofit  
public benefit corporation;

16 2. That an order issue directing that defendants and each of them, render to the Court and to  
17 the Attorney General a full and complete accounting of the financial activities and condition of  
18 C4C from their inception to the present, to include the expenditure and disposition of all revenues  
19 and assets received by or on behalf of C4C. Upon the rendering of such accounting, that the  
20 Court determine the property, real or personal, or the proceeds thereof, to which C4C and the  
21 charitable beneficiaries thereof are lawfully entitled, in whatsoever form in whosoever hands they  
22 may now be, and order and declare that all such property or the proceeds thereof is impressed  
23 with a trust for charitable purposes, that defendants are constructive trustees of all such charitable  
24 funds and assets in their possession, custody or control, and that the same shall be deposited  
25 forthwith in Court by each and every defendant now holding or possessing the same or claiming  
26 any rights, title or interest therein. In addition, that these defendants be surcharged and held liable  
27 and judgment entered against each of them for any and all such assets for which they fail to  
28 properly account, together with interest thereon at the legal rate from the date of liability thereon;  
and that any and all expenses and fees incurred by defendants in this action be borne by the



1 individual defendants and each of them and not by C4C or any other public or charitable  
2 corporation or fund;

3 3. For damages resulting from the breaches of fiduciary duty of all Defendants in an amount  
4 to be determined following an accounting from these defendants, plus interest at the legal rate  
5 until the judgment is paid;

6 4. For punitive and exemplary damages against Defendants according to proof;

7  
8 5. That the Court assess civil penalties against Defendants pursuant to Government Code  
9 section 12591.1 for violations of the Supervision of Trustees and Fundraisers for Charitable  
10 Purposes Act (Gov. Code § 12580 et seq.) as proved at trial;

11 6. Pursuant to Business and Professions Code section 17536, that the Court assess a civil  
12 penalty of two thousand five hundred dollars (\$2,500) against Defendants for each violation of  
13 Business and Professions Code section 17500, as proved at trial, in an amount not less than  
14 \$100,000;

15 7. Pursuant to Business and Professions Code section 17206, that the Court assess a civil  
16 penalty of two thousand five hundred dollars (\$2,500) against all Defendants for each violation of  
17 Business and Professions Code section 17200, as proved at trial, in an amount not less than  
18 \$100,000;

19 8. Pursuant to Business and Professions Code section 17206.1, Defendants and each of them  
20 be ordered to pay a civil penalty of \$2,500 for each violation of Business and Professions Code  
21 section 17200 that was perpetrated against a senior citizen or disabled person, as proved at trial;

22 9. Pursuant to Business and Professions Code section 17206, that the Court make such  
23 orders or judgments as may be necessary to prevent the use or employment by any Defendant of  
24 any act or practice that constitutes unfair competition or as may be necessary to restore to any  
25 person in interest any money or property that may have been acquired by such act or practice.

26 10. Pursuant to Business and Professions Code section 17535, that the Court make such  
27 orders or judgments as may be necessary to prevent the use or employment by any defendant of  
28 any practice that violates Business and Professions Code section 17500 or as may be necessary to

1 restore to any person in interest any money or property that may have been acquired by such acts  
2 or practices.

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

8 12. That the Court order the involuntary dissolution of C4C pursuant to the provisions of  
9 Corporations Code section 6518, provide for satisfaction of all of its lawful debts, and establish a  
10 procedure for determining the disposition of all remaining assets of C4C in a manner consistent  
11 with their charitable purposes and consistent with any lawful restrictions that have been placed  
12 upon any of their remaining assets;

13 13. That the Court order the permanent removal of the OFFICER/DIRECTOR  
14 DEFENDANTS pursuant to the provisions of Corporations Code section 5223;

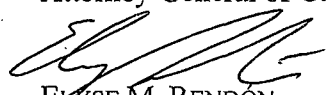
15 14. For Plaintiff's costs of suit and other costs pursuant to Government Code section 12598;  
16 and

17 15. For Plaintiff's attorney fees as provided in Government Code section 12598 and Code of  
18 Civil Procedure section 1021.8.

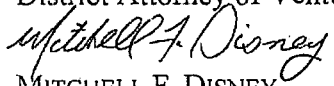
19 Dated: December 1, 2015

Respectfully Submitted,

20 KAMALA D. HARRIS  
21 Attorney General of California

22   
23 ELYSE M. RENDÓN  
24 Deputy Attorney General

25 GREGORY D. TOTTEN  
26 District Attorney of Ventura County

27   
28 MITCHELL F. DISNEY  
Senior Deputy District Attorney

*Attorneys for the People of the State of California*