

EDMUND G. BROWN JR.  
Attorney General of California  
DAVID S. CHANEY  
Chief Assistant Attorney General  
JONATHAN K. RENNER  
Senior Assistant Attorney General  
ZACKERY P. MORAZZINI  
Supervising Deputy Attorney General  
SUSAN K. LEACH (SBN 231575)  
PETER H. CHANG (SBN 241467)  
Deputy Attorneys General  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Telephone: (916) 445-1968  
Fax: (916) 324-8835  
E-mail: Peter.Chang@doj.ca.gov

*Attorneys for Plaintiffs*  
*The People of the State of California*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

**THE PEOPLE OF THE STATE OF  
CALIFORNIA ex rel EDMUND G.  
BROWN JR., Attorney General of The State  
of California,**

Plaintiffs,

v.

**ROBERT A. RIZZO, PIER'ANGELA  
SPACCIA, RANDY G. ADAMS, OSCAR  
HERNANDEZ, TERESA JACOBO,  
GEORGE COLE, VICTOR BELLO, AND  
GEORGE MIRABAL, in their official and  
personal capacities, CITY OF BELL, AND  
DOES 1-100, inclusive,**

Defendants.

FILING FEE EXEMPT  
(Gov. Code, § 6103)

CASE NO.:

**COMPLAINT**

1. Waste of Public Funds (Code Civ. Proc., § 526a)
2. Negligence
3. Negligence (Civ. Code, § 1714(a))
4. Fraud
5. Fraud (Civ. Code, §§ 1709 and 1711)
6. Conflict of Interest (Gov. Code, § 1090)
7. Breach of Fiduciary Duty and Violation of Public Trust

1 Plaintiffs, the People of the State of California (the People), by and through Edmund G.  
2 Brown Jr., Attorney General of the State of California, allege as follows:

### 3 INTRODUCTION

4 1. The People bring this action against certain officers and employees of the City of  
5 Bell (the City), challenging their conduct, both intentional and negligent, that enriched themselves  
6 at the expense of the City and its citizens whom they assumed an obligation to faithfully serve.

7 2. Among other things, the city council members and Chief Administrative Officer  
8 (Robert Rizzo) awarded to themselves and certain other City officers and employees, and took  
9 great pains to conceal, salaries and benefits that grossly exceeded what were reasonable and  
10 commensurate with their respective offices and duties, all in blatant disregard of the public trust  
11 confided in them.

12 3. Robert Rizzo dictated the terms of the employment contracts for the City officers  
13 and employees, and council members negligently approved those contracts without ever  
14 reviewing or even seeking to learn the terms of the contracts.

15 4. Defendants, including Robert Rizzo and Pier'angela Spaccia (Assistant Chief  
16 Administrative Officer), were aware that their compensation was excessive and wasteful, and thus  
17 crafted their employment contracts to conceal their full compensation from the public.

18 5. The city council members were also aware that the compensation that they gave  
19 themselves was excessive and wasteful, and thus they also took action to deceive the public, by  
20 both active concealment and affirmative misrepresentation, as to their true compensation.

21 6. The excessive and wasteful compensation given to the defendants was paid out of  
22 public funds, and thus the City and its citizens ultimately footed the bill left by the defendants'  
23 self-enriching activities. In addition to the compensation already paid to defendants, the City is  
24 responsible for a much larger bill in the future when it must pay for the defendants' wrongfully-  
25 gained retirement benefits under CalPERS and the City's own Supplemental Retirement Plan.

### 26 PLAINTIFF AND JURISDICTION

27 7. Edmund G. Brown Jr. is the duly elected Attorney General of the State of  
28 California and is the chief law officer of the State. The Attorney General has the power to file

1 any civil action or proceeding directly involving the rights and interest of the State, or which he  
2 deems necessary for the enforcement of the laws of the State, the preservation of order, and the  
3 protection of public rights and interests.

4 8. The Attorney General has determined that this action is necessary for the  
5 enforcement of the laws of the State, the preservation of order, and the protection of public rights  
6 and interests.

7 9. The violation of laws, both statutory and common law, which are the subject of  
8 this action, occurred in the County of Los Angeles.

9 **DEFENDANTS**

10 10. Defendant Robert A. Rizzo was the Chief Administrative Officer of the City from  
11 May 1993 through at least July 2010. Rizzo is named in both his official and personal capacities.

12 11. Defendant Pier'angela Spaccia was the Assistant to the Chief Administrative  
13 Officer of the City from July 2003 to June 2008, and the Assistant Chief Administrative Officer  
14 from June 2008 to at least July 2010. Spaccia was hired by Rizzo. Spaccia is named in both her  
15 official and personal capacities.

16 12. Defendant Randy G. Adams was the Police Chief of the City from May 2009  
17 through at least July 2010. Adams was hired by Rizzo. Adams is named in both his official and  
18 personal capacities.

19 13. Defendant Oscar Hernandez, at relevant times mentioned herein, was a council  
20 member and/or mayor of the City. Hernandez is currently the mayor. Hernandez is named in  
21 both his official and personal capacities.

22 14. Defendant Teresa Jacobo, at relevant times mentioned herein, was a council  
23 member of the City. Jacobo is currently a council member. Jacobo is named in both her official  
24 and personal capacities.

25 15. Defendant George Mirabal, at relevant times mentioned herein, was a council  
26 member and/or mayor of the City. Mirabal is currently a council member. Mirabal is named in  
27 both his official and personal capacities.

16. Defendant Victor Bello, at relevant times mentioned herein, was a council member of the City. Bello is named in both his official and personal capacities.

17. Defendant George Cole, at relevant times mentioned herein, was a council member of the City. Cole is named in both his official and personal capacities.

18. Any reference to Council Member defendants refers to defendants Hernandez, Jacobo, Mirabal, Bello, and Cole.

19. Defendant City of Bell is a municipal corporation in the County of Los Angeles. Any reference to the City of Bell as a defendant in this action will be specified. Unless so specified, any reference to “defendants” or “all defendants” does not include the City of Bell.

20. Any reference to any act of defendants means the act of each defendant acting individually, jointly, and/or in concert with all other defendants.

21. The true names and capacities of defendants sued herein as DOES 1 through 100, inclusive, are unknown to the People at this time. The People therefore sue these defendants by fictitious names. Each of the fictitiously named defendants is responsible in some manner for the violations of law and accrual of the causes of action. The People will amend this Complaint to show the true names of each when they are ascertained. Whenever reference is made in this Complaint to any defendant, the reference shall include DOES 1 through 100, inclusive.

## FACTUAL BACKGROUND

## I. DEFENDANTS AWARDED THEMSELVES EXCESSIVE COMPENSATION

22. Each defendant has received excessive and wasteful compensation from the City. The amount of compensation that exceeds what was reasonable and commensurate with defendants' respective duties and responsibilities provided no use or benefit to the City, and was totally unnecessary, wasteful, and illegal.

## A. Rizzo

23. Defendant Rizzo, as Chief Administrative Officer of the City, had a base salary of \$787,500 in 2010.

24. Rizzo's salary is excessive and wasteful, and was not commensurate with his

1 duties and responsibilities. As a point of comparison, Rizzo's base salary is over three times what  
2 cities of comparable population in the Los Angeles region pay to their city managers on average.

3 25. Since 1993, the city council has raised Rizzo's salary 16 times, including  
4 automatic raises, by an average of 14 percent every year. In 2005 alone, Council Member  
5 defendants raised Rizzo's salary by more than 47 percent. In 2008, even as defendants cut back  
6 on services to the City's residents and laid off certain city employees, Rizzo received a set of five  
7 new employment contracts that provided for automatic 12 percent annual increases to his base  
8 salary.

9 26. Even though the city council raised Rizzo's salary over ten-fold between 1993 and  
10 2010, his responsibilities as the Chief Administrative Officer of the City remained nearly the  
11 same.

12 27. Council Member defendants also provided Rizzo excessive and wasteful benefits.

13 28. As an illustration, Rizzo's 2008 contracts with the City provide that he accrue  
14 service credit with the California Public Employees' Retirement System (CalPERS) at double the  
15 normal accrual rate, effectively providing for double the retirement benefits from CalPERS.

16 29. In 2008, Council Member defendants further provided Rizzo with 856 hours (107  
17 days) of vacation and 288 hours (36 days) of sick leave per year. The 143 days of annual vacation  
18 and sick leave awarded to Rizzo is excessive and wasteful, in light of the fact that there are only  
19 around 250 working days in a year.

20 30. Furthermore, defendants permitted Rizzo to convert his vacation and sick leave  
21 into pay at a rate of \$304 per hour. In 2009 alone, Rizzo cashed out over 1100 hours of vacation  
22 and sick leave for over \$360,000, bringing his total salary from the City to over \$1,100,000.

23 31. The cost of these and other benefits to the City far exceeds Rizzo's base salary and  
24 is to be determined at trial. For example, Rizzo is a member of both CalPERS and the City's  
25 Supplemental Retirement Plan. His excessive and wasteful compensation could wrongfully  
26 increase the retirement benefits he would receive from these pension plans and, correspondingly,  
27 the City's liabilities to these plans.



1           32.     Under the City Charter, the City was to pay Rizzo a salary “commensurate with  
2 the responsibilities of chief administrative officer of the City.” The compensation that the  
3 Council Member defendants provided to Rizzo far exceeded his responsibilities as Chief  
4 Administrative Officer and was wasteful.

5           33.     Council Member defendants approved Rizzo’s employment contracts without  
6 giving each contract the requisite deliberation, consideration, or due care. Upon information and  
7 belief, Council Member defendants did not review Rizzo’s employment contracts before  
8 approving them. Instead, the Council Member defendants either relied on Rizzo’s oral  
9 representations as to terms of his own employment contracts or did not seek to discover the terms  
10 of Rizzo’s contracts at all, in complete dereliction of their duties to the City. They merely  
11 approved and signed whatever Rizzo directed them to approve and sign.

12           **B.    Spaccia**

13           34.     Defendant Spaccia, as Assistant Chief Administrative Officer of the City, had a  
14 base salary of \$336,000 in 2010. This salary is excessive and wasteful, and was not  
15 commensurate with her duties and responsibilities. As a point of comparison, Spaccia’s base  
16 salary is more than 40 percent higher than those of the city managers of cities in the Los Angeles  
17 region with populations comparable to the City.

18           35.     Since Rizzo hired Spaccia in July 2003, she has received salary increases every  
19 year. The Council Member defendants and/or Rizzo raised Spaccia’s salary by an average of 19  
20 percent each year, including a 42 percent raise in 2005. In 2008, even as defendants cut back on  
21 services to the City’s residents and laid off certain city employees, Rizzo approved a new contract  
22 for Spaccia that provided for a 20 percent raise in 2008 and automatic annual 12 percent raises to  
23 her base salary thereafter.

24           36.     In addition to an excess base salary, Council Member defendants and Rizzo gave  
25 Spaccia excessive and wasteful benefits.

26           37.     As an illustration, Council Member defendants provided Spaccia with 856 hours  
27 (107 days) of vacation and 288 hours (36 days) of sick leave per year. The 143 days of annual  
28

1 vacation and sick leave awarded to Spaccia is excessive and wasteful, in light of the fact that  
2 there are only around 250 working days in a year.

3 38. Furthermore, defendants permitted Spaccia to convert her vacation and sick leave  
4 into pay at a rate of \$147 per hour. In 2009 alone, Spaccia cashed out over 1100 hours of  
5 vacation and sick leave for nearly \$175,000, bringing her total salary to over \$540,000.

6 39. The cost of these and other benefits to the City far exceeds Spaccia's base salary  
7 and is to be determined at trial. For example, Spaccia is a member of both CalPERS and the  
8 City's Supplemental Retirement Plan. Her excessive and wasteful compensation could  
9 wrongfully increase the retirement benefits that she would receive from these pension plans and,  
10 correspondingly, the City's liabilities to these plans.

11 40. Council Member defendants approved the City's contracts with Spaccia without  
12 giving each contract the requisite deliberation, consideration, or due care. None of the Council  
13 Member defendants reviewed any of Spaccia's employment contracts before approving them.  
14 Furthermore, none of the Council Member defendants sought to discover the terms of Spaccia's  
15 employment contracts. They merely approved and signed whatever Rizzo directed them to  
16 approve and sign, in complete dereliction of their duties to the City.

17 41. Upon information and belief, Rizzo authorized Spaccia's 2008 employment  
18 contract without giving it the requisite deliberation, consideration, or due care as to the  
19 appropriate compensation that was commensurate with her duties and responsibilities.

20 **C. Adams**

21 42. Adams, as the Police Chief of the City had a base salary of more than \$457,000.  
22 This salary is excessive and wasteful, and was not commensurate with his duties and  
23 responsibilities.

24 43. Upon information and belief, Adams' base salary grossly exceeds those of police  
25 chiefs of cities of comparable population in the Los Angeles region.

26 44. Rizzo approved Adams' employment contract in 2009. In approving Adams'  
27 contract, Rizzo did not consult with or seek the approval of the Council Member defendants.

1           45.     Rizzo hired Adams as the City's police chief even though he believed that Adams  
2 was not able to fully perform his law enforcement duties as police chief because of purported  
3 preexisting injuries.

4           46.     In addition to his base salary, Rizzo gave Adams excessive and wasteful benefits.

5           47.     As an illustration, Rizzo agreed to provide Adams and his dependents lifetime  
6 healthcare insurance benefits immediately upon the effective date of his contract with no vesting  
7 period. Rizzo further agreed, on behalf of the City, that the City would support Adams' claim for  
8 medical disability retirement in conjunction with his regular service retirement when Adams  
9 retires from the City.

10          48.     The cost of these and other benefits to the City far exceeds Adams' base salary and  
11 is to be determined at trial. For example, Adams is a member of CalPERS. His excessive and  
12 wasteful compensation could increase the retirement and disability benefits he would receive  
13 from CalPERS and, correspondingly, the City's liabilities to CalPERS.

14          49.     Upon information and belief, Rizzo entered into Adams' 2009 employment  
15 agreement on behalf of the City without giving the contract the requisite deliberation,  
16 consideration, or due care as to the appropriate compensation that was commensurate with his  
17 duties and responsibilities.

18           **D.     Council Member Defendants**

19          50.     Council Member defendants awarded themselves excessive and wasteful  
20 compensation.

21          51.     In 2010, Council Member defendants who are still on the city council are to  
22 receive over \$96,000 in base salary. As a point of comparison, under state law, council members  
23 of general law cities with the population of the City are to receive no more than \$4,800 per year.

24          52.     Upon information and belief, the duties and responsibilities of the Council  
25 Member defendants are similar to the responsibilities and duties of their counterparts in cities  
26 with comparable population in the Los Angeles region.

27          53.     Since 2003, Council Member defendants have awarded themselves annual  
28 increases in salary averaging 16 percent each year. In certain years, Council Members defendants



1 raised their own salaries multiple times. For example, in 2005, the Council Members awarded  
2 themselves two salary increases of 17 percent each.

3 54. Council Member defendants further awarded themselves with overtime pay,  
4 bringing their total salaries even higher. For example, Jacobo was paid over \$110,000 by the City  
5 in 2009, of which over \$16,000 was for purported overtime work.

6 55. Council Member defendants made each of the salary and benefit increases without  
7 the requisite deliberation, consideration, or due care as to the appropriate compensation that was  
8 commensurate with their duties and responsibilities.

9 **E. Defendants Converted the City Into A Charter City in Order to Increase**  
10 **Their Compensation**

11 56. Upon becoming a charter city in December 2005, Council Member defendants  
12 awarded themselves salaries far exceeding those of their counterparts in general law cities.

13 57. Prior to 2006, the City was a general law city. But in 2005, a state law was  
14 proposed that would limit the authority of council members in general law cities to increase their  
15 own salaries. Under those guidelines, Council Member defendants could receive no more than  
16 \$400 per month for work they perform on behalf of the City, including work for any City  
17 commissions, boards, or authorities.

18 58. In reaction to the proposed law, Rizzo approached Council Member defendants  
19 and proposed that the City become a charter city. Upon information and belief, Rizzo told the  
20 Council Member defendants that if the City became a charter city, they could increase their own  
21 salaries and not be restricted by the statutory salary guidelines.

22 59. Council Member defendants then elected to submit a proposal to convert the City  
23 into a charter city at a special election.

24 60. At or around the time Rizzo and other defendants worked to turn the City into a  
25 charter city, thus allowing the Council Member defendants to increase their own salaries, the  
26 Council Member defendants gave Rizzo and Spaccia raises of 47 and 42 percent, respectively.

1 **II. DEFENDANTS DEFRAUDED THE PUBLIC REGARDING THE AMOUNT OF THEIR**  
2 **COMPENSATION**

3 61. As defendants increased their own compensation at the expense of the City and its  
4 citizens, they took active measures to conceal and/or misrepresent their true compensation to  
5 members of the public.

6 **A. Defendants Intentionally Crafted Ordinances And Their Own Contracts**  
7 **To Avoid Discovery Of Their Compensation By The Public**

8 62. Each defendant was aware that his or her compensation from the City was  
9 excessive and wasteful. For that reason, they carefully crafted their contracts and other  
10 documents authorizing pay and benefit increases to avoid discovery by the public of their full,  
11 wasteful compensation.

12 **1. Council Member Defendants Defrauded The Public By Approving A**  
13 **Deceptive Ordinance**

14 63. As an illustration, Council Member defendants passed Ordinance No. 1158 in  
15 February 2005. The title of the Ordinance states, "AN ORDINANCE OF THE CITY COUNCIL  
16 OF THE CITY OF BELL LIMITING COMPENSATION FOR MEMBERS OF THE CITY  
17 COUNCIL PURSUANT TO CALIFORNIA GOVERNMENT CODE § 36516(c)." (underline  
18 added.)

19 64. Rather than *limiting* the compensation of council members, as the title of the  
20 ordinance states, the text of the ordinance actually *increased* the Council Member defendants'  
21 salaries from \$673 per month to \$1,332 per month—almost doubling their salaries as council  
22 members. (And which does not include their salaries for sitting on the boards of various city  
23 authorities, agencies, and commissions.)

24 65. Upon information and belief, by using a false and misleading title for Ordinance  
25 No. 1158, Council Member defendants intended to deceive the public. They were aware that only  
26 the title of the ordinance, and not the text, would be published in the agenda and minutes of the  
27 relevant city council meetings. Furthermore, Council Member defendants approved Ordinance  
28

1 No. 1158 as part of a consent agenda during the city council meeting so that there was no public  
2 discussion or deliberation of the ordinance.

3 66. Additionally, the alleged factual basis and purported justification for Ordinance  
4 No. 1158 were false. The factual justification of the salary increase provided by Ordinance No.  
5 1158 was that the Council Member defendants had not received a pay increase since 1991, when,  
6 according to the misinformation set out in the 2005 Ordinance No. 1158, they were being paid  
7 \$673 per month. But this is false. City council members had previously raised their salaries to  
8 \$673 per month in 2001, not 1991.

9 67. In 2001, pursuant to city Ordinance No. 1139, council members had given  
10 themselves nine years' worth of cumulative five percent per year salary increase, raising their  
11 salaries from \$434 per month to \$673 per month. The justification for this salary increase in 2001  
12 was that the council member salaries had not been increased since 1992.

13 68. When Council Member defendants passed Ordinance No. 1158 in 2005, however,  
14 they used the \$673 per month salary as the 1991 starting point (but which was actually set in  
15 2001), and used this falsely stated and inflated base salary to increase their salaries by 14 years'  
16 worth, rather than four years' worth, of cumulative raises.

17 69. Employing such mathematical sleight-of-hand and utilizing false and deceptive  
18 information as to their alleged salary in 1991, Council Members thus wrongfully provided  
19 themselves with *duplicate* raises for the nine-year period from 1992 to 2001.

20 70. At least defendants Cole and Bello were aware of this deception as they approved  
21 both Ordinance No. 1139 and Ordinance No. 1158.

22 71. From July 2005 to at least July 2009, Council Member defendants maintained their  
23 city council salary steady while increasing their salaries from the various city authorities,  
24 agencies, and commissions by approximately 13 percent each year. While the salaries of the  
25 Council Member defendants were primarily derived from these authorities and commissions, the  
26 Council Member defendants did little or no work for them.

1                   **2.     Fraud and Misrepresentation by Rizzo**

2           72.     Prior to 2008, Rizzo had a single employment contract with the City that provided  
3 for his entire compensation. In or around September 2008, the terms of Rizzo's employment with  
4 the City were broken up into at least five separate contracts. Rizzo had one primary contract with  
5 the City and four other contracts with four separate component units of the City: Bell Solid Waste  
6 and Recycling Authority, Bell Surplus Property Authority, Bell Community Housing Authority,  
7 and Bell Public Financing Authority (the Authorities).

8           73.     Upon information and belief, while Rizzo did little or no work for the Authorities,  
9 he and other defendants split his salary among the five contracts to conceal the full amount of his  
10 salary from the public and to mislead and deceive the public as to his compensation.

11          74.     Even before September 2008, Rizzo's responsibilities as Chief Administrative  
12 Officer of the City included work, if any, on behalf of each of the Authorities. Rizzo's  
13 responsibilities with the City, or any of the Authorities, did not change after September 2008.

14          75.     In addition to being fraudulent, Rizzo's 2008 contracts were also unauthorized,  
15 and thus ultra vires. The City Council defendants did not collectively consider, deliberate, or  
16 approve the contracts. Rather, defendant Hernandez signed the contracts on behalf of the City as  
17 the purported mayor. In September 2008, however, Mirabal, not Hernandez, was the mayor of  
18 the City. Rizzo's 2008 contracts were therefore not properly authorized.

19                   **3.     Fraud and Misrepresentation by Rizzo, Spaccia, and Adams**

20          76.     Spaccia's contracts with the City were similarly prepared so as to conceal the true  
21 extent of her compensation from the public. For example, Rizzo and Spaccia prepared a contract  
22 for Spaccia in 2008. Spaccia's 2008 contract does not disclose her salary. Rather, it merely  
23 states that she would be paid according to her 2005 contract with the City, and that she was to  
24 receive, and did receive, a 20 percent salary increase two months after the effective date of the  
25 2008 contract, and 12 percent annual increases thereafter.

26          77.     Rizzo, Spaccia, and Adams' efforts to conceal their true compensation from the  
27 public were confirmed in an email exchange between Spaccia and Adams.



1           78.     In 2009, Spaccia and Adams worked together to prepare Adams' employment  
2 contract with the City. In one draft of his contract, Adams inserted a clause specifying the  
3 number of pay periods in a year. Spaccia, however, instructed Adams to remove that clause  
4 because it could easily be used to calculate his total salary. Spaccia wrote, "[w]e have crafted our  
5 Agreements carefully so we do not draw attention to our pay. The word Pay Period is used and  
6 not defined in order to protect you from someone taking the time to add up your salary."

7           79.     Adams agreed to remove the pay period clause from his contract.

8           **B.     2008 Salary Memorandum**

9           80.     In September 2008, on Rizzo's instruction, a memorandum was prepared that  
10 purported to provide the salary information for Council Members defendants and for Rizzo.  
11 Defendants told the city clerk to give this memorandum to any member of the public who  
12 inquired as to the salaries of city officers and employees.

13          81.     Upon information and belief, the memorandum was provided to members of the  
14 public.

15          82.     The salary information provided by the memorandum was false, deceptive, and/or  
16 misleading.

17          83.     The 2008 salary memorandum states that Council Member defendants were paid  
18 \$673 per month (\$8,076 per year) and Rizzo was paid \$15,478 per month (\$185,736 per year).

19          84.     In September 2008, however, Council Member defendants were actually paid over  
20 \$7,600 per month (over \$91,200 per year) and Rizzo was paid over \$52,000 per month (over  
21 \$624,000 per year).

22          85.     Defendants were aware the information provided by the memorandum was false,  
23 deceptive and/or misleading, and yet agreed to disseminate this memorandum to the public.

24           **III.   DEFENDANTS MANIPULATED THE CITY'S SUPPLEMENTAL RETIREMENT PLAN TO**  
25           **MAXIMIZE THE BENEFIT TO THEMSELVES AND TO FURTHER THEIR PERSONAL**  
26           **AGENDAS AT THE EXPENSE OF THE CITY AND ITS CITIZENS**

26          86.     In August 2003, the City implemented a Supplemental Retirement Plan (the Plan)  
27 that provided retirement benefits, at the expense of the City, to a small group of City officers and  
28 employees, including the defendants.

1           87.     Upon information and belief, since the implementation of the Plan, Rizzo, Spaccia,  
2 and other defendants have modified the terms of the Plan to maximize their own benefits and also  
3 to further their personal agendas.

4           88.     As an illustration, Rizzo and Spaccia modified the benefits under the Plan and also  
5 the amount of the City's contribution to the Plan based solely upon when they expected to retire.  
6 The modifications thus provided a unique benefit to them that was not available to other Plan  
7 members.

8           89.     Furthermore, upon information and belief, Rizzo, Spaccia, and other defendants,  
9 for their own purposes, wanted defendant Bello to resign from the city council in 2009. Upon  
10 further information and belief, they thus modified the Plan in 2009 to reduce the eligible  
11 retirement age for council members as an incentive for Bello to resign.

12           90.     Each time the Plan was modified, it was done at the direction of Rizzo, Spaccia,  
13 and/or other defendants.

14     **IV.   THE CITY'S CONTINUING OBLIGATION TO DEFENDANTS**

15           91.     Upon information and belief, the City continues to pay defendants their excessive  
16 and wasteful salaries. In addition, the City continues to report defendants' salaries to CalPERS  
17 and continue to contribute to the City's Supplemental Retirement Plan based on the defendants'  
18 excessive and wasteful salaries obtained through illegal and fraudulent means. Upon information  
19 and belief, the City contributes around \$900,000 per year to the Supplemental Retirement Plan.

20                     **FIRST CAUSE OF ACTION**

21                     Waste of Public Funds/Illegal Expenditure of Public Funds  
22                     (Code of Civil Procedure Section 526a)  
                      (Against All Defendants and the City)

23           92.     The People reallege and incorporate by reference the averments in paragraphs 1  
24 through 91.

25           93.     Code of Civil Procedure section 526a provides that an action to obtain a judgment,  
26 restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or  
27 other properties of a county, town, city or city and county of the state, may be maintained against  
28 any officer thereof, or any agent, or other person, acting in its behalf. The purpose of this statute

1 is to restrain or prevent an illegal or wasteful expenditure of public money. An action may also  
2 be prosecuted under this statute to recover illegally or wastefully expended money.

3 94. As set forth above, the compensation to all defendants beyond what was  
4 commensurate with their duties and responsibilities, and beyond what cities in the Los Angeles  
5 region with comparable populations were paying their officers and employees, was a waste of the  
6 public funds of the City and was illegally expended. Such excess compensation paid to  
7 defendants, in an amount to be proven at trial, provided no benefit to the City and its citizens.

8 95. The excess compensation paid to defendants was authorized by City ordinances  
9 and/or defendants' employment contracts. The actions of defendants in approving and/or  
10 accepting the excess compensation were not within their scope of duties in their respective  
11 capacities as City officials, and were ultra vires.

12 96. The excess compensation paid to Council Member defendants, Rizzo, and Spaccia  
13 (from 2003 to June 2008), was authorized by the Council Member defendants. The authorization  
14 of excess compensation to defendants was unreasonable, arbitrary, and a clear abuse of discretion  
15 by Council Member defendants, and was ultra vires.

16 97. The acceptance of such excess compensation was also unreasonable, arbitrary, and  
17 a clear abuse of discretion by the respective defendants.

18 98. The excess compensation paid to Spaccia (after June 2008) and Adams was  
19 authorized by Rizzo. The authorization of excess compensation to Spaccia and Adams was  
20 unreasonable, arbitrary, and a clear abuse of discretion by Rizzo, and was ultra vires.

21 99. The acceptance of such excess compensation was also unreasonable, arbitrary, and  
22 a clear abuse of discretion by the respective defendants.

23 100. As alleged above, all defendants agreed and collaborated in the wasteful  
24 expenditure of public funds.

25 101. Upon information and belief, the City continues to pay the salaries of all  
26 defendants, continues to contribute to its Supplemental Retirement Plan on behalf of all  
27 defendants, and continues to report the salaries of defendants to CalPERS for purposes of  
28

1 determining their pensions. Such actions by the City, in light of the defendants' wrongful  
2 conduct as alleged herein, are wasteful and illegal expenditures of public funds.

3  
4 **SECOND AND THIRD CAUSES OF ACTION**

5 Negligence in Authorizing Wasteful Expenditure of Public Funds  
6 Civil Code Section 1714(a)  
7 (Against Council Member Defendants and Rizzo)

8 102. The People reallege and incorporate by reference the averments in paragraphs 1  
9 through 101.

10 103. Council Member defendants and Rizzo were negligent in authorizing the wasteful  
11 expenditures of public funds.

12 104. As public officers and employee of the City, Council Member defendants and  
13 Rizzo have a duty to use due care and reasonable diligence in authorizing the expenditure of  
14 public funds.

15 105. As set forth above, Council Member defendants failed to exercise due care and  
16 reasonable diligence in approving the employment contracts of Rizzo and Spaccia. The Council  
17 Member defendants did not review the employment contracts prior to approving them, did not  
18 deliberate and consider whether the terms of the contracts were reasonable, appropriate, and  
19 commensurate with the respective duties and responsibilities, and did not even inquire as to the  
20 terms of the contracts before approving them.

21 106. Similarly, and as set forth above, defendant Rizzo failed to exercise due care and  
22 reasonable diligence in approving the employment contracts of Spaccia and Adams. Rizzo failed  
23 to determine whether the terms of the contracts were reasonable, appropriate, and commensurate  
24 with their respective duties and responsibilities.

25 107. Council Member defendants and Rizzo's breached their duties of due care in  
26 authorizing the employment contracts, causing wasteful expenditures of the City's public funds.  
27 As a result of defendants' breaches of their duties, the authorization of the employment contracts  
28 was arbitrary and unreasonable, resulting in excessive and wasteful compensation.



1           108. The City and its citizens suffered, and continue to suffer, damages as a result of the  
2 defendants' breaches of their duties. The excess compensation that defendants awarded to  
3 themselves and each other provided no use or benefit to the City and constituted wasteful  
4 expenditures of public funds.

5           109. The defendants are jointly and severally liable for damages to the City. The  
6 defendants had a joint and mutual obligation in ensuring that the compensation to themselves was  
7 reasonable and commensurate with their respective duties and responsibilities. Defendants also  
8 had an equal obligation to direct, govern, and/or influence each other's conduct regarding the  
9 awarding of compensation.

10                           **FOURTH AND FIFTH CAUSES OF ACTION**

11   Fraud

12   Civil Code Sections 1709 and 1711

13   (Against Council Member Defendants and Rizzo)

14           110. The People reallege and incorporate by reference the averments in paragraphs 1  
15 through 109.

16           111. As set forth above, Council Member defendants defrauded the public by  
17 intentionally hiding the amount of their true compensation received from the City.

18           112. By publication in the Council Meeting Minutes, Council Member defendants  
19 affirmatively misrepresented to the public that Ordinance No. 1158 was to *limit* their  
20 compensation. In fact, the ordinance nearly *doubled* their salaries.

21           113. Upon information and belief, members of the public relied on the  
22 misrepresentation, and were thus deprived of the motive and opportunity to challenge the  
23 wasteful salaries.

24           114. Upon information and belief, Council Member defendants were aware that  
25 Ordinance No. 1158 was not to limit their compensation but rather to raise their compensation by  
26 nearly 100 percent.

27           115. Council Member defendants, by such action, intended to trick the public into  
28 believing that Ordinance No. 1158 was to limit their compensation.

116. Rizzo conspired with the Council Member defendants to defraud the public. Upon information and belief, Rizzo participated in this plan to defraud the public by assisting in the drafting of Ordinance No. 1158.

117. Council Member defendants' action caused damages to the City and to its citizens. The excess compensation that defendants awarded to themselves and each other provided no use or benefit to the City and were wasteful expenditures of public funds.

118. Furthermore, as set forth above, Rizzo concealed or made false representations to the public as to his true compensation and those of the Council Member defendants.

119. Rizzo caused the false and incomplete salary information to be published to the public by publishing it in a memorandum to be distributed to the public.

120. Rizzo was aware that the salary information provided in the memorandum was false and incomplete, and not the true and total compensation provided by the City to himself and the Council Member defendants.

121. Rizzo intended that the memorandum deceive members of the public who inquired about the salary of city officials.

122. Upon information and belief, members of the public did receive the memorandum and relied on the misrepresentations in the memorandum, and thus they were deprived of the motive and opportunity to challenge the excessive and wasteful salaries.

123. This misrepresentation caused damages to the City and to its citizens. The excess compensation that defendants awarded to themselves and each other provided no use or benefit to the City and was a wasteful expenditure of public funds.

### SIXTH CAUSE OF ACTION

Government Code Section 1090

(Against Rizzo and Spaccia)

124. The People reallege and incorporate by reference the averments in paragraphs 1 through 123.

125. Government Code section 1090 prohibits city officers and employees from entering into contracts in their official capacities in which they have a personal financial interest.

1 Section 1090 bars a division in the loyalties of public servants between the public interests of  
2 their constituents and private opportunities for their personal financial gain.

3 126. As set forth above, defendants violated Section 1090. Rizzo, Spaccia, and other  
4 defendants directed the modification of the City's Supplemental Retirement Plan such that it  
5 created particularized benefits to themselves and furthered their personal agendas.

6 127. Rizzo, Spaccia, and other defendants directed the modification of the City's  
7 Supplemental Retirement Plan in their official capacities and had a cognizable financial interest in  
8 the Plan above and beyond other members of the Plan.

9 128. Rizzo and Spaccia's violations of section 1090 were knowing and willful.

10 129. This violation of section 1090 caused damages to the City and to its citizens.  
11 Rizzo and Spaccia's manipulation of the Plan to provide for unique benefits to themselves  
12 increased the City's obligation to fund the Plan. The increased funding obligations on the City  
13 provided no use or benefit to the City and were wasteful expenditures of public funds.

14 **SEVENTH CAUSE OF ACTION**

15 Breach of Fiduciary Duty and Violation of Public Trust  
16 (Against All Defendants)

17 130. The People reallege and incorporate by reference the averments in paragraphs 1  
18 through 129.

19 131. Council members and other officers and employees of a city are charged with  
20 holding and preserving a public trust, and owe a fiduciary duty to the City and its citizens, and  
21 must act in the interest and for the benefit of the people they serve. These duties include the  
22 duties of undivided loyalty and allegiance to the city they are obligated to serve, and the faithful  
23 execution of the public trust confided in them.

24 132. Defendants, as officers and employees of the City, violated the public trust and  
25 breached their fiduciary duties to the City and its citizens when they awarded themselves and  
26 each other excessive and wasteful compensation that were not commensurate with their  
27 respective duties and responsibilities.  
28

1           133. Defendants, as officers and employees of the City, also violated the public trust  
2 and breached their fiduciary duties to the City and its citizens when they accepted the excessive  
3 and wasteful compensation that they awarded to themselves and to each other.

4           134. Defendants, as officers and employees of the City, further violated the public trust  
5 and breached their fiduciary duties to the City and its citizens when they defrauded and deceived  
6 the public as to their full compensation.

7           135. Defendants conspired to breach their fiduciaries duties owed to the City and its  
8 citizens. Upon information and belief, each defendant intentionally violated the public trust and  
9 breached his or her fiduciary duty to the City and its citizens, and actively encouraged and  
10 participated in the other defendants' violation of public trust and breach of their fiduciary duties.

11           136. The City and its citizens suffered damages as a result of defendants' violation of  
12 the public trust and breach of their fiduciary duties. The excess compensation that defendants  
13 awarded to themselves and each other provided no use or benefit to the City and was a wasteful  
14 expenditure of public funds.

15 //

16 //



1 **WHEREFORE**, the People pray for judgment against defendants as follows:

2 1. An order requiring defendants, jointly and severally, to make restitution to the  
3 City for compensation they approved and/or accepted, and which was in excess of what was  
4 reasonable and appropriate, in an amount to be proven at trial;

5 2. An order imposing a constructive trust over the proceeds of compensation that  
6 was in excess of what was reasonable and appropriate, in an amount proven at trial;

7 3. A declaration that all employment contracts and addenda of Rizzo, Spaccia, and  
8 Adams executed in and after 2005 are null and void *ab initio*;

9 4. An order requiring each defendant to make restitution to the People, including  
10 CalPERS, for any amount of pension benefits received by defendants that was in excess of what  
11 was reasonable and appropriate, in an amount to be proven at trial;

12 5. An order requiring each defendant to make restitution to the City for any  
13 contribution the City made to CalPERS and the City's Supplemental Pension Plan on behalf of  
14 the defendant as a result of the excess compensation, in an amount to be proven at trial;

15 6. A declaration that the compensation paid to each defendant by the City in  
16 excess of what was reasonable, in an amount to be proven at trial, is not to be considered for  
17 determination of their pensions by CalPERS or the City Supplemental Retirement Plan;

18 7. An order precluding Rizzo and Spaccia from receiving any benefits under the  
19 City Supplemental Retirement Plan pursuant to Government Code section 1092;

20 8. A declaration that Rizzo and Spaccia are disqualified from holding public office  
21 in perpetuity pursuant to Government Code section 1097;

22 9. A declaration that all defendants have vacated their public offices;

23 10. A declaration that Council Member defendants are disqualified from holding  
24 public office in perpetuity;

25 11. An order appointing a receiver to, among other things, facilitate the operation  
26 of the City;

1           12.     An order enjoining the City from paying salaries or providing benefits to  
2 defendants in excess of what is commensurate with their duties and responsibilities, in an amount  
3 to be proven at trial;

4           13.     An order enjoining the City from disbursing any benefits under its  
5 Supplemental Retirement Plan to defendants;

6           14.     An order enjoining the City from making further contributions to its  
7 Supplemental Retirement Plan;

8           15.     An order enjoining the City from reporting to CalPERS any salaries of  
9 defendants in excess of what is reasonable and appropriate, in an amount to be proven at trial;

10          16.     Exemplary damages against all defendants;

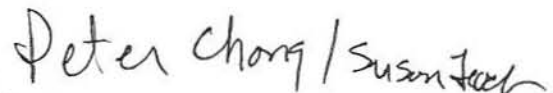
11          17.     For the People's costs of suit incurred herein; and

12          18.     For such other and further relief as this Court deems just and proper.

13  
14 Dated: September 15, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.  
Attorney General of California  
DAVID S. CHANEY  
Chief Assistant Attorney General  
JONATHAN K. RENNER  
Senior Assistant Attorney General  
ZACKERY P. MORAZZINI  
Supervising Deputy Attorney General  
SUSAN K. LEACH  
PETER H. CHANG  
Deputy Attorneys General

21  
22 

23 PETER H. CHANG  
24 Deputy Attorney General

25 *Attorneys for Plaintiffs*  
26 *The People of the State of California*  
27  
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