

DISCOVERY CONTROL PLAN

1.1 The Attorney General intends to conduct discovery under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

AUTHORITY OF ATTORNEY GENERAL AND NATURE OF THIS SUIT

2.1 This suit is brought by the Attorney General pursuant to the authority granted him under the common law, the Constitution of Texas, Chapter 123 of the Texas Property Code¹, the Texas Non-Profit Corporation Act², the Texas Miscellaneous Corporation Laws Act³, and acting within the scope of his duty to protect the public interest in charitable funds held in trust.

JURISDICTION AND VENUE

3.1 This court has jurisdiction over the parties and subject matter pursuant to TEX.PROBATE CODE ANN. § 5(e), TEX.PROP. CODE ANN. §115.001, and TEX.CIV.PRAC. & REM. CODE ANN. § 37.001 *et seq.*. Venue is proper in this Court under TEX.PROP. CODE ANN. §123.005(a) because this proceeding alleges a breach of charitable trust fiduciary duties.

¹TEX.PROP. CODE ANN. §§ 123.001-123.005

²TEX.REV.CIV.STAT.ANN., Arts. 1396-1.01 through 1396-11.02. In this pleading, the articles of the Non-Profit Corporation Act are cited as "NPCA, Art. X.XX," e.g., TEX.REV.CIV.STAT.ANN., Art. 1396-1.01 is cited as "NPCA, Art. 1.01."

³TEX.REV.CIV.STAT.ANN., Arts. 1302-1.01 through 1302-7.09. In this pleading, the articles of the Miscellaneous Corporation laws Act are cited as "MCLA, Art. X.XX," e.g., TEX.REV.CIV.STAT.ANN., Art. 1302-1.01 is cited as "MCLA, Art. 1.01."

PARTIES

4.1 The Attorney General is the plaintiff in this suit, acting on behalf of the public interest in charity.

4.2 Defendant PAD is a California non-profit corporation with its principal place of business in Dallas County, Texas, and may be served with process by serving its Registered Agent, John Shute, at 4081 Preston Lakes Circle, Celina, Collin County, Texas 75009, or at his home, 2653 Saltmaker Way, Little Elm, Denton County, Texas 75068.

4.3 Defendant Christensen is the Executive Director and a director of PAD and is an individual residing and doing business in Texas as alleged specifically below, and may be served with process at his residence, 4081 Preston Lakes Circle, Celina, Collin County, Texas 75009.

4.4 Defendant Brown was, until he resigned on June 9, 2008, a director of PAD and is an individual residing and doing business in Texas as alleged specifically below, and may be served with process at his place of business, Greener Pastures Landscape, Inc., 2525 Manana Drive, Dallas, Dallas County, Texas 75220, or at his residence, 420 Broadwing Drive, McKinney, Collin County, Texas 75069.

4.5 Defendant Glenn was, until he resigned on April 17, 2008, a director of PAD and is an individual residing and doing business in Texas as alleged specifically below, and may be served with process at his place of business, Greener Pastures Landscape, Inc., 2525 Manana Drive, Dallas, Dallas County, Texas 75220, or at his residence, 2712 Woodbury Drive, Flower Mound, Denton County, Texas 75028.

4.6 Defendant Shute is a director and officer of PAD and is an individual residing and

doing business in Texas as alleged specifically below, and may be served with process at his place of business, 4081 Preston Lakes Circle, Celina, Collin County, Texas 75009, or at his home at 2653 Saltmaker Way, Little Elm, Denton County, Texas 75068.

THE FACTS

5.1 PAD is a California non-profit corporation that was formed in 1991, and acquired a certificate of authority to do business in Texas in 1992. PAD's most recently amended articles of incorporation recite that it is

a nonprofit public benefit corporation and is not organized for the private gain of any person; it is organized . . . for charitable purposes. . . . this corporation shall: (i) provide quality/affordable gang-free/drug-free housing , living and educational environments and opportunities—including, without limitation, on its own behalf or in conjunction with public agencies or other qualified nonprofit agencies, the purchase, leasing, operation and rehabilitation of housing projects and the conduct/operate/support of a full range of housing/social service programs in connection therewith, (ii) conduct/operate/support educational programs, with emphasis on quality of life and chemical abuse education/prevention, (iii) conduct/operate/support programs/facilities for the treatment and rehabilitation of chemically dependent or otherwise “recovering” individuals and (iv) conduct/operate/support other activities/operations/programs in any way related to the above recited purposes/goals.

PAD's articles of incorporation also expressly prohibit the corporation from “interven[ing] in any political campaign.” PAD's Application for Certificate of Authority to operate in Texas states that “[t]he purpose or purposes which it proposes to pursue in conducting its affairs in Texas are: to develop [sic] gang & drug free living environments, [sic] and to also teach drug free & gang free living [sic].”

5.2 In 1993, PAD acquired Country Creek Apartments (“the Apartment Complex”), a 296-unit apartment complex located at 1702 N. Jupiter Road, Garland, Dallas County, Texas. PAD

acquired the Apartment Complex in a transaction involving the Resolution Trust Corporation and the Garland Housing Finance corporation. As part of its acquisition of the Apartment Complex, PAD guaranteed that 35 per cent of units would be rented to low income tenants for a period of forty years. PAD is a charitable entity, exempt from federal, state, and local taxes.

5.3 Defendant Christensen is the founder, executive director, chief executive officer, and director of PAD. Until the spring of 2008, when Defendant Shute was appointed Chief Financial Officer of PAD, Christensen has been completely in control of the assets and corporate structure of PAD. At present, Christensen and Shute are the only officers and directors of PAD.

5.4 The Apartment Complex is managed by an unrelated for-profit management company which performs all of the day-to-day functions of operating it pursuant to a contract with PAD. PAD has no employees working at its Garland headquarters, and the headquarters, located in an apartment of the Apartment Complex, is not open regular hours, nor is there a person regularly answering the telephone there.

5.5 The Apartment Complex generates annual rents approximating \$2 million. Except for the fact that it does not pay taxes, it operates in a way that is indistinguishable from a multi-unit housing complex that is operated as a for-profit business. There are some low income tenants living in the complex, but they pay market rents, either out of their own pockets or with the assistance of rent subsidies received from governmental programs. PAD does not employ any special measures to deter the use of illegal (or other) drugs by residents of the Apartment Complex, nor does it offer any anti-drug programs on the premises of the Apartment Complex. The Apartment Complex generates cash surpluses approaching \$1 million per year.

5.6 PAD has claimed that one of its charitable purposes is to provide drug education

curricula to schools. However, in the seventeen years since PAD was created, not a single school has adopted a drug education program written, designed, or published by PAD.

5.7 In 2001, PAD began operating a truck racing team in the truck racing circuit operated by the National Association for Stock Car Auto Racing (“NASCAR”). At first, the team was called the “People Against Drugs” team. In subsequent years, the name of the team was changed to “Green Light Racing” and Christensen and Robert “Bobby” Dotter, a former driver for the team, were publicly identified as the “owners” of the team, despite the fact that the team was actually owned by PAD. In recent years, PAD has claimed on its tax returns (IRS Form 990) that the expenses of operating the race team, including millions of dollars paid for car parts, drivers, mechanics, etc., were “program services,” asserting, for example, that the \$1,226,882 that PAD spent on “race parts” in 2005 was part of its charitable program. Apparently, PAD claims that the NASCAR team has advanced PAD’s mission by serving as a medium for publicizing its anti-drug message. In fact, however, the race team has done little or nothing to combat drug use; apparently limiting its efforts in this regard to placing a small PAD logo on each of the trucks. In recent years, PAD has spent literally millions of dollars on its truck racing enterprise without advancing any of its charitable purposes thereby in any significant way. At least \$3,000,000 of the cash used to provide operating funds was obtained by refinancing the Apartment Complex in 2005, thus significantly depleting PAD’s assets and thereby reducing its ability to carry out its charitable mission.

5.8 Defendants have intentionally withheld or failed to maintain a complete and accurate set of books and records for PAD. Specifically, Defendants have failed to maintain minutes of meetings of the board of directors, corporate bylaws, or accurate financial records, including receipts, invoices, ledgers, and loan agreements, as to each financial transaction of the corporation, including

income and expenditures, for all or part of the time period examined. PAD also failed to have a Secretary as required under the NPCA, Arts.2.20, 2.23, and 2.23A. In fact, while PAD has, in various documents, identified Christensen, Brown, Glenn, and others as directors, PAD has not been managed by a board of directors at all, in violation of the NPCA, Art.2.14, which requires the affairs of a corporation to be managed by a board of directors. Instead, it has been under the sole control of Christensen, at least until Shute joined PAD in the spring of 2008.

5.9 In 1996, Christensen and PAD entered into a purported employment contract in which PAD agreed to employ Christensen as its executive director.⁴ (A copy of the contract is attached hereto as Exhibit A) The terms of the purported contract were highly disadvantageous to PAD in the following particulars:

- (a) It was for a term of 25 years;
- (b) Despite the fact that Christensen had no significant training or experience in non-profit management prior to his involvement in PAD, the contract provided for an unreasonably high level of compensation: \$102,000.00 per annum plus annual cost of living increases;
- (c) In addition to the extremely high salary, it provided that "Christensen shall be entitled to receive the medical and hospitalization, group life insurance, pension and all other benefits which are customarily provided to executive directors of similar non-profit entities;"
- (d) Also, it provided that "PAD shall also provide Christensen with a vehicle to be replaced periodically . . . ;"
- (e) Having given Christensen these open-ended entitlements, the contract granted Christensen absolute authority to make all decisions on behalf of PAD, without any

⁴The contract was signed by Christensen on his own behalf and Christensen, Mike Nordstrom, and Dino DeMarco on behalf of PAD.

further approval of the Board of Directors.⁵ This delegation of authority violates NPCA, Arts. 2.14 and 2.29. Thus, under the terms of this agreement, Christensen is empowered to decide how much insurance and pension he is "entitled" to and what kind of car PAD will buy for him;

- (f) The contract cannot be terminated by PAD, except for extreme cause, i.e., if Christensen has failed to work fulltime for PAD and has failed to "cure" that failing within 30 days of receiving written notice of his failure, or if he has been convicted of fraud and embezzlement in court; and
- (g) If Christensen can no longer perform his duties because of disability or death, he or his estate are entitled to one year at half-pay.

The employment contract was not negotiated in an arms-length transaction between PAD and Christensen; its terms were dictated by Christensen in an attempt to essentially give him "ownership" of this non-profit corporation. The contract does not represent a reasonable basis for advancing the charitable purposes of the charity.

5.10 Christensen does not participate in the day-to-day operation of the Apartment Complex, nor does he perform any other significant services that advance the charitable purposes of PAD. Despite this fact, PAD pays him compensation worth more than \$100,000 per year. For example, PAD reported on its 2005 federal tax return that it paid Christensen \$181,000 during that

⁵"Additionally, Christensen is hereby granted and is vested with all necessary and requisite power and authority to manage and conduct the business and carry out the purpose of PAD in the manner as deemed reasonable and necessary to Christensen, in his sole discretion."
Employment Agreement, Page 1, ¶ 1.2.

"Authority of Christensen. The Board of Directors of Pad have determined, as evidenced by an appropriate resolution dated November 24, 1995 and that Christensen is vested with the full power and authority to act on behalf of PAD and sign any and all documents for PAD."
Employment Agreement, Page 3, ¶ 6.

year⁶, plus benefits and the use of a late model vehicle. Apparently, in recent years, Christensen has devoted most of his time to the NASCAR team, the motion picture business, and running for public office, but he has continued to be paid handsomely by PAD.⁷ Christensen's compensation grossly exceeds the fair market value of any service that he provides toward the advancement of PAD's charitable mission.

5.11 In addition to his excessive compensation, Christensen has misappropriated and allowed the misappropriation of PAD's resources for his own benefit and for other non-charitable purposes. For example, in recent years the following items have been charged to PAD's credit cards:

- (1) \$5,000 to "Dallas County Republic" (on information and belief believed to be the Dallas County Republican Party),
- (2) Extensive charges at restaurants, retail stores, convenience stores and grocery stores in McKinney, Texas (where Christensen lived until the summer of 2007),
- (3) \$400 in iTunes purchases,
- (4) A \$1,080 charge to Nuvage in McKinney, a medical/skin care facility,
- (5) Lodging charges at a Best Western in Venezuela,
- (6) Lodging charges at a Sheraton in Maui, Hawaii,
- (7) Lodging charges at a Sheraton in Beijing, China,
- (8) \$700 for "tights," a "bodysuit," and makeup at Neiman-Marcus in McKinney,

⁶It is difficult to ascertain exactly how much Christensen has been paid as "salary" in the years since 2005. PAD has not filed a federal tax return (IRS form 990) for 2006 or 2007, so it has not been forced to declare in that forum how much compensation it pays him. In fact, in recent years Christensen has not been treated as an employee on the books of PAD; he simply treats PAD's assets as his own and takes whatever he wants. Apparently, the compensation reported on PAD's form 990s for 2005 and previous years is a figure constructed after the fact by the accountants charged with preparing the returns.

⁷During the period beginning in July 2006 and ending on March 31, 2008, a total of \$545,000 was transferred from two of PAD's checking accounts to Christensen's personal checking account at the same bank.

- (9) A \$7,000 charge at Dallas Watch & Jewelry, and
- (10) Regular payments to Northstar Gymnastics in McKinney.

5.12 PAD has made regular payments from its operating account, totaling thousands of dollars, to Greener Pastures Landscape, Inc., a lawncare business operated by Brown and Glenn, for services provided to Christensen at his home.

5.13 In 2000, according to PAD's tax return, Christensen received a loan of \$119,260 from PAD. Christensen paid no interest on the loan. This loan constitutes a *per se* violation of NPCA, Art. 2.25, which prohibits non-profit corporations from making loans to directors.

5.14 In addition to his excessive compensation, credit card charges for personal expenditures, paying for the landscaping of his private home, and PAD's financing of his NASCAR team, Christensen has misappropriated PAD's charitable assets in other ways. For example, in 2006, he transferred \$40,500 from PAD to his personal account, and then immediately transferred the same amount to HK Pictures, apparently to help finance the making of a film called "Hood Hostages," of which Christensen describes himself as the "Executive Producer."

5.15 In May 2007, Christensen began a campaign for political office. Since then, he claims to have "loaned" his campaign at least \$278,640. It is unlikely that this "loan" will ever be repaid because Christensen's campaign raised only \$12,200 in campaign contributions during the same time period. At least \$94,500 of Christensen's "loan" to his own political campaign were funds transferred from a PAD bank account to Christensen's personal bank account and, immediately thereafter, to his political campaign. It is probable that the remainder of the funds "loaned" to the campaign also represents a misuse of charitable assets, either because they too have been transferred

from PAD to the political campaign, or because Christensen has been paid excessive compensation by PAD for many years, thus allowing him to accumulate the funds that he "loaned" to his campaign.

5.16 In July 2007, the Attorney General of Texas began an investigation of PAD by serving it with a civil investigative demand/ request to examine. Shortly thereafter, Christensen apparently decided to get PAD out of the NASCAR racing business. In November 2007, Christensen revived a dormant for-profit corporation called "Greenlight Racing, Inc.," of which he was the sole shareholder. Several months later, PAD sold most of its race team assets to S.S. Racing, a for-profit business. As part of that transaction, PAD transferred some assets associated with the NASCAR racing operation to Greenlight Racing, Inc. Christensen then transferred his stock in the corporation to Bobby Dotter. As a consequence of these transactions, certain valuable assets of PAD were transferred without consideration to a for-profit entity owned primarily by Bobby Dotter.

5.17 In recent years, PAD has operated the Apartment Complex essentially as a for-profit business that generated more than \$1 million per year in "profits." Instead of using this money to advance the charitable purposes of the corporation, Gene Christensen, who absolutely controlled PAD, has used PAD's resources to pay himself excessive compensation, make payments into his "retirement fund," pay his personal expenses, finance a NASCAR team, and underwrite his political ambitions. He has also allowed PAD's resources to be unjustifiably distributed to his "partner," Bobby Dotter, and other participants in the Green Light Racing Team. Essentially, PAD has been operated as Gene Christensen's alter ego, without carrying out any significant charitable function. It has wasted millions of dollars of charitable assets without significantly advancing its stated charitable purposes of providing housing for low income people and fighting drug abuse.

5.18 Recently, in response to the investigation of PAD by the Office of the Attorney

General, Shute has joined PAD as a director and chief financial officer of the corporation. Christensen has agreed to have PAD compensate Shute for his services. Part of Shute's compensation is to allow him to charge unspecified personal expenses to PAD credit cards.

5.19 In recent weeks, in response to the Attorney General's investigation of PAD and in an attempt to have PAD do something to fulfill its charitable mission, PAD has assumed the operation of a "halfway house" for substance abusers that was abandoned by the non-profit entity that previously operated it. The halfway house provides room and board to residents who pay their own way, or whose rent is paid by some outside agency. PAD does not provide any professional services to the residents of the halfway house.

CAUSES OF ACTION

Violations of the NPCA

6.1 The Attorney General reasserts the factual allegations contained in paragraphs 5.1 through 5.19 above.

6.2 PAD is a non-profit, charitable corporation based in the State of Texas and holds its assets in charitable trust on behalf of the public subject to the statutory duties of officers and directors. Defendant PAD itself has a fiduciary duty to the public and other statutory duties imposed by the NPCA.

6.3 Defendant Christensen, in his capacity as Executive Director and Director, Defendant Shute, in his capacity as Chief Financial Officer and Director, and Defendants Brown and Glenn, in their capacities as Directors, are subject to the fiduciary duties imposed by the NPCA.

6.4 The individual defendants (Christensen, Shute, Brown, and Glenn) have, through

acts and omissions, breached the duties imposed on them as officers and directors of PAD by failing to use PAD's charitable assets exclusively for the organization's mission and purpose as expressed in PAD's Articles of Incorporation and Mission Statement. Instead, individual defendants have allowed or acquiesced to PAD's assets being used for personal gain of Christensen, Bobby Dotter, and others. Individual defendants have allowed improper loans to be made to Christensen, a director of PAD and have allowed the distribution of monetary assets to officers, and directors and employees, which was used to purchase personal items, finance political campaigns, invest in motion picture production, pay excessive compensation, and otherwise expend the resources of PAD for purposes unrelated to its charitable mission. Individual defendants have also failed to properly and sufficiently manage corporate assets or have PAD be properly managed by a Board of Directors. Directors Christensen, Brown, and Glenn had or should have had knowledge of the these wrongdoings, and have failed to take any action at all. These acts and omissions of the individual defendants amount to a failure to act in good faith and with ordinary care and in a manner that directors and officers reasonably believe to be in the best interest of PAD as required for directors and officers of non-profit corporations by the NPCA, Arts. 2.22, 2.28. Such failures amount to a breach of fiduciary duty.

6.5 PAD, and individual defendants Christensen, Shute, Brown and Glenn, in their representative capacities as officers, directors and employees, have also violated the following other provisions of the NPCA:

- A) NPCA, Arts. 2.23 and 2.23A, by failing to keep or properly maintain PAD's books and records and failing to maintain true and accurate financial records with full and correct entries made with respect to each of the financial transactions of the corporation. Such inadequate financial record-keeping is a violation of the law and breach of fiduciary duty to the public.

- B) NPCA, Arts. 2.09A., 2.14A., and 2.20A. by failing to manage its affairs by a board of directors, have both a secretary and president as officers;
- C) NPCA, Art. 2.25 , by making a loan to a director;
- D) NPCA, Art. 2.24, by distributing the assets of the corporation to the employees, directors, and officers of the corporation in excess of reasonable compensation for services provided in furtherance of the charitable mission of the corporation; and
- E) NPCA, Arts. 2.14 and 2.29, by delegating the legal authority of the board of directors to Christensen as executive director.

These violations of the NPCA by Defendants amount to gross breaches of the Defendants' fiduciary duties to the public.

6.6 Individual defendants are jointly and severally liable for compensatory damages in the amount of any misappropriated or misdirected assets of PAD, and for any dispensation of the nonprofit corporation's assets over and above amounts determined to be reasonable compensation for services rendered.

6.7 Individual defendants are further liable for all taxes, fines, and other civil penalties and all actual and exemplary damages, including all pre-judgment and post-judgment interest on all awards of damages, civil penalties, and other recoveries as provided by law, to which the Attorney General, on behalf of the public interest in charity, may show himself entitled. To the extent required by Texas law, the above claims are made against the nominal corporate defendant PAD.

Statutory and Common Law Breach of Fiduciary Duty

6.8 The Attorney General reasserts the factual allegations contained in paragraphs 5.1 through 5.19 above.

6.9 PAD is a non-profit corporation with its headquarters in the State of Texas and holds its assets in charitable trust subject to the common law fiduciary duties and statutory duties of officers and directors. Christensen, Shute, Brown, and Glenn in their capacities as directors, officers and employees, are subject to the fiduciary duties imposed by common and statutory law.

6.10 Funds generated through the services provided by PAD are also impressed with a charitable trust. The law regarding charitable trust assets requires that such funds be used for the charitable purposes for which they were received. Defendants owe various fiduciary duties to the general public to disburse those funds and services accordingly and not otherwise. By failing to do so, Defendants have breached their fiduciary duties to the general public.

6.11 Defendant PAD and Christensen, Shute, Brown, and Glenn, in their capacity as directors, officers and employees have misappropriated and wasted the assets of PAD through the distribution of monetary assets to directors, officers, employees and others which were used for purposes not related to the charitable purposes of PAD. As a result, Christensen, Shute, Brown, and Glenn have breached their fiduciary duties to PAD and to the general public.

6.12 Based on the conduct alleged in the preceding paragraphs, individual defendants have, by means of inappropriate and unlawful acts and omissions, breached their duties as fiduciaries or managerial agents of a charitable trust. Such acts by defendants violate the common law and statutory laws of the State of Texas pertaining to charitable organizations. PAD holds its assets in trust for the benefit of the public and for the charitable purposes for which the non-profit corporate entity is dedicated, defendants owe fiduciary duties to the citizens of the State of Texas, as well as to PAD as a non-profit corporate entity, to use the non-profit corporate assets for the mission and purposes intended, and for no other. Since defendants have failed to properly hold these assets in

trust, they have breached their fiduciary duties and a constructive trust should be imposed, as specifically requested below, on all assets of the nonprofit corporate defendant PAD which have been used for any improper purpose.

6.13 Based upon the common law, state charitable trust law, and their fiduciary duties, defendants are liable for the diversion of any PAD assets over and above amounts determined to have been appropriately used for PAD's charitable purposes. Defendants are further liable for all taxes, fines, and other civil penalties and all actual and exemplary damages, including all pre-judgment and post-judgment interest on all awards of damages, civil penalties, and other recoveries as provided by law, to which the Attorney General, on behalf of the public interest in charity, may show himself entitled.

Grossly Negligent Mismanagement

6.14 The Attorney General reasserts the factual allegations asserted in Paragraphs 5.1 through 5.19 above.

6.15 Individual defendants have violated the special duty of care imposed upon their capacities as fiduciaries by failing to oversee the management and control of PAD in accordance with the law governing non-profit charitable organizations, as alleged above. Individual defendants have exercised their fiduciary duties in such a negligent and irresponsible manner that their lack of diligence results in breach of their fiduciary duties and subjects them to damages as a result of their gross negligence.

Negligent Mismanagement

6.16 The Attorney General reasserts the factual allegations asserted in Paragraphs 5.1 through 5.19 above.

6.17 Individual defendants, in their management and oversight of PAD, have breached the duty of care imposed upon them in their capacities as a fiduciaries, as alleged above. Individual defendants have failed to exercise their fiduciary duties in such a negligent manner that their lack of diligence caused harm to the public. For such harm, individual defendants breach of fiduciary duty subjects them to damages as a result of their negligence.

EQUITABLE REMEDIES

Request for Appointment of a Temporary Receiver

7.1 In accordance with principles of equity, the special powers of Texas courts in matters pertaining to charity, and in light of the seriousness of the allegations raised in this pleading and potential for continual damage to the corporation, the appointment of a temporary receiver to conserve PAD's assets and avoid damage to the interests of the public of the State of Texas is necessary. The appointment of a temporary receiver is authorized by NPCA, Art. 7.04; MCLA, Art. 5.10; and TEX.CIV.PRAC.&REM. CODE §§ 64.001 *et seq.*

7.2 The Attorney General requests that a temporary receiver be appointed to represent the interests of PAD during the pendency of this litigation, and to choose legal representation for PAD in this litigation solely for the benefit of the corporation; and order that such temporary receiver be given the authority and duty to conduct the general business of PAD. No other adequate remedy is available at law or in equity to accomplish these goals.

Accounting

7.3 In the event that the Court does not appoint a receiver, the Court should order the defendants to provide the Attorney General and the Court with a complete accounting of the charitable assets of PAD, performed in accordance with generally accepted accounting principles by a professional public accountant named by the Court.

Disgorgement

7.4 All of the charitable assets of PAD are subject to the equitable remedy of disgorgement, which is the forced relinquishment of all benefit that would be unjust for any of the Defendants to retain, including any excessive compensation paid by PAD, any misappropriated or misapplied charity assets, benefits, or profits that are the result of defendants' misconduct as described in the foregoing paragraphs. Christensen, Shute, Brown, and Glenn should be ordered to disgorge all misappropriated or misapplied charity assets, benefits, or profits, together with all of the associated proceeds, profits, income, and interest. All property disgorged should be returned to PAD for the benefit of the public and the mission of PAD.

Imposition of a Constructive Trust

7.5 Christensen, Brown, and Glenn misappropriated, misused or misdirected charity-dedicated funds and other property in violation of their fiduciary duties. Pursuant to principles of equity applicable to charity assets, defendants' wrongdoing imposes a charitable trust on the property so misappropriated, misused, or misdirected. Thus, based on the facts set forth in this petition, the amounts so misappropriated, misused or misdirected are thus subject to the imposition by this Court

of a constructive trust to be held solely for the specific charitable purposes of PAD.

Declaratory Judgment

7.6 The Court should enter a judgment declaring that the employment contract between Christensen and PAD is void on the grounds that it is a sham contract and is not supported by adequate consideration.

7.7 The Court should declare that Christensen is in breach of the employment contract because he has failed to work full time for PAD in a way that advances the charitable purposes of the organization or because he has committed a fraud or embezzlement against PAD.

Replacement of Officers and Directors

7.8 Christensen, Shute, Brown, and Glenn have consistently and repeatedly failed to perform their fiduciary duties as officers and directors of PAD in a manner which preserves the charitable assets of the corporation and advances the charitable purposes of the corporation. Therefore, the Court should exercise its equitable powers to preserve the resources and charitable mission of PAD by removing the aforesaid individual defendants from their positions as officers and directors and appointing new officers and directors.

APPLICATION FOR TEMPORARY INJUNCTION AND PERMANENT INJUNCTION

8.1 Based on the above-recited facts, the Attorney General requests that the Court issue a Temporary Injunction and after trial hereof, a Permanent Injunction pursuant to the legal standards and supporting facts as alleged below.

8.2 PAD is based in Texas and its major asset, the Apartment Complex, is located in Texas. Christensen, Brown, and Glenn are residents of Texas. However, PAD is a California corporation and Christensen is a native of California who moved to Texas for the primary purpose of operating PAD and the Apartment Complex. Many of the transfers of charitable assets complained of in this Petition were transfers of assets out-of-state, to e.g., North Carolina, Louisiana, and Indiana. Defendants have misappropriated and misused millions of dollars of PAD's charitable assets during the last several years, most of which is gone beyond any hope of retrieval. PAD is Christensen's sole or primary source of wealth and income, and it is quite possible that he will seek to prevent the return of charitable assets by removing them from the jurisdiction of the Court or by transferring PAD's assets to third parties, or by otherwise depleting PAD's charitable assets during the pendency of this action. Defendants Christensen, Shute, Brown and Glenn are unable to respond in damages in anything approaching the full amount of the charitable assets misappropriated from PAD.

8.3 The Attorney General's sworn petition demonstrates that he has pleaded a cause of action upon which he will probably prevail on the merits. There is no remedy at law which will adequately protect the public's interest in charity. The granting of the extraordinary relief requested is in the public interest because it will protect the public's interest in charity.

Emergency Relief Requested Against Defendants

8.4 Upon notice and after hearing, the Court is requested to issue a Temporary Injunction and specifically find that there exists an imperative and immediate necessity to restrain Christensen, Shute, Brown and Glenn, individually and in their capacities as officers and directors of PAD, and

by their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from the following:

- A. Taking any actions for or on behalf of PAD other than as directed by the Court or the temporary receiver appointed by the Court; or transferring, concealing, destroying, or removing from the jurisdiction of the Court any books, records, documents, invoices, or other written materials relating to the operations of PAD, currently or hereafter in defendants' possession, custody, or control except in response to further orders in this cause;
- B. Transferring, concealing, destroying, or removing from the jurisdiction of the Court any asset, books, records, documents, invoices, accounts, papers, correspondence, computers, computer discs, tapes, software, or other written or computer generated, or electronically stored materials or any materials relating to the business of PAD, presently or hereafter in the possession, custody, or control of any defendant, except in response to further orders in this cause; and
- C. Making any payments from PAD assets to any person or other entity, including, but not limited to: Gene W. Christensen, Cheryl Davis, John W. Brown, Martin T. Glenn, John Shute, Robert "Bobby" Dotter, Greenlight Racing, Inc., S.S. Racing, Inc., Gene Christensen for Congress Campaign, Crane & Crane, Andrew Klein, Rick Neudorff, Counter Consulting, Impressions Marketing, Greener Pastures, Inc., Denise Laman, Ashli Long, Kelli Long, Lindsey Miller, Alan Bijan, or KHYI Radio, provided that this order does not prevent PAD from making payments in the normal course of its operation of the Country Creek Apartments, 1702 N. Jupiter, Garland, Dallas County, Texas ("the Apartment Complex"), including, but not limited to, fees paid to Pace Realty, Inc. for managing the property, wages and salaries paid to employees (other than Gene Christensen) employed in the actual operation of the Apartment Complex, payments of loans secured by mortgages or liens on the Apartment Complex, security deposit and rent refunds to tenants and former tenants of the Apartment Complex, payments for labor or materials for repairs or maintenance to the Apartment Complex, payments for gas, electricity, or other utilities provided to the Apartment Complex or its tenants, payments for trash hauling or other waste removal services provided to the Apartment Complex, or any taxes, fees or other payments due to any governmental unit arising out of the ordinary operation of the Apartment Complex; and
- D. Making any conveyance of real property owned by PAD in Texas or any other state or country, provided that this order does not prohibit PAD from leasing apartments in the normal course of its operation of Country Creek Apartments.

Directive to All Depository Institutions

8.5 The Attorney General respectfully requests this Court to issue, after notice and hearing, a Directive to All Depository Institutions, which receive actual notice of this Order by personal service or otherwise, to include the following:

- A. Any financial or brokerage institution, escrow agent, title company, storage facility, commodity trading company, business entity or person maintaining or having custody or control of any account or other assets of PAD;
- B. Any affiliated or related corporation, partnership, or other entity, directly or indirectly owned, managed, or controlled by any Defendant which may be involved in any transaction with PAD; and
- C. Any affiliated or related corporation, partnership, or other entity, directly or indirectly owned, managed, or controlled by any Defendant, which may be involved in any transaction with PAD, and that at any time since the inception of PAD, has maintained or had custody of any account or other assets.

8.6 The Attorney General respectfully requests this Court to direct the foregoing entities as follows:

- A. To hold and retain within their control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any of the assets, funds, or property held by, or under its control, on behalf of PAD in any account maintained in the name of or for the benefit of PAD, in whole or in part, except in accordance with the orders of the Court; and
- B. To deny, until further order of the court, access to any safe deposit boxes or storage facilities that are either:
 - i. titled in the name of PAD, individually or jointly with any other defendant(s), or
 - ii. otherwise subject to access by PAD, individually or jointly with any of the defendants herein, including its officers, directors, employees,

agents, or other representatives.

ATTORNEYS' FEES

9.1 Due to the acts of Defendants, the Attorney General has found it necessary to investigate and prosecute this action. Consequently, the Attorney General requests that this Court adjudge against Defendants, jointly and severally, all attorneys' fees, investigators' fees and costs of court pursuant to TEX.GOV'T. CODE ANN., § 402.006(c), TEX.PROP. CODE ANN. § 123.005(b), and TEX.CIV.PRAC. & REM. CODE ANN. § 37.009.

PRAYER

WHEREFORE, Attorney General Greg Abbott, on behalf of the public interest in charity, respectfully prays the Court:

1. To issue citation to all defendants to appear and answer herein;
2. After notice and hearing, to issue the temporary injunction described above;
3. After notice and hearing, appoint a temporary receiver to protect the assets and administer the business of People Against Drugs Affordable Public Housing Agency, Inc. during the pendency of this action;
4. After notice and hearing, order a complete accounting of the assets of People Against Drugs Affordable Public Housing Agency, Inc.;
5. Order the individual defendants to disgorge all of the wrongfully acquired charitable assets of People Against Drugs Affordable Public Housing Agency, Inc.;
6. Impose a constructive trust on all improperly acquired assets of People Against Drugs Affordable Public Housing Agency, Inc. held by the individual defendants or subject to their control;
7. Order the reconstitution of the existing board of directors and the replacement of the present officers of People Against Drugs Affordable Public Housing Agency, Inc.

with new officials;

8. Declare that the employment contract between People Against Drugs Affordable Public Housing Agency, Inc. and Gene Christensen is void and/or that Christensen is in breach of said contract;
9. Award the Attorney General his costs of court, including his reasonable attorneys' fees and investigatory expenses; and
10. Award such other relief, whether legal or equitable, as may be necessary to vindicate the public's interest in charity.

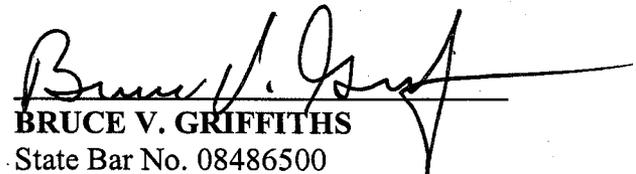
Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

KENT SULLIVAN
First Assistant Attorney General

JEFF L. ROSE
Deputy First Assistant Attorney General

PAUL D. CARMONA
Chief, Consumer Protection &
Public Health Division



BRUCE V. GRIFFITHS
State Bar No. 08486500
Assistant Attorney General
Complex Litigation Section
Consumer Protection &
Public Health Division
P.O. Box 12548
Austin, Texas 78711-2548
Telephone: 512-475-4184
Facsimile: 512-322-0578

STATE OF TEXAS

COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, this day appeared the person known to me to be
SUSAN GALLOWAY, who, being first by me duly sworn, stated upon her oath as follows:

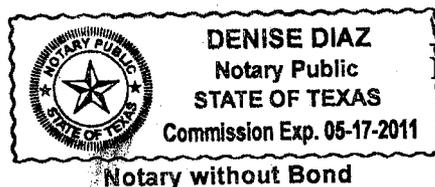
“My name is Susan Galloway. I am an adult and otherwise competent to make this affidavit. I am employed as an investigator in the Charitable Trusts Section of the Consumer Protection Division of the Office of the Attorney General of Texas.”

“I have been assigned to the Attorney General’s investigation of People Against Drugs Affordable Housing Agency (“PAD”) since it was opened in July 2007. I have carefully read the allegations of the foregoing *Attorney General’s Original Petition and Application for Temporary and Permanent Injunction* and state that they are true and correct”.

“My verification of this pleading is based on my review of PAD’s federal tax returns, and bank statements, credit card statements, loan documents, deeds, mortgages, and other documents provided to the Attorney General by PAD itself in response to our Civil Investigative Demands/Requests to Examine, and on the basis of my review of business records provided to us by other entities in response to Civil Investigative Demands/Requests to Examine served on them in connection with this investigation. In Paragraph 5.14, I rely on statements made in Gene Christensen’s on-line résumé which appeared at <http://www.imdb.com/name/nm2304376/resume> for the assertion that “Christensen describes himself as the “Executive Producer” of the film “Hood Hostages.”


Susan Galloway

SWORN AND SUBSCRIBED before me this 23rd day of June, 2008.



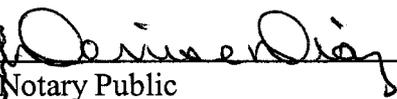

Notary Public

Exhibit A

EMPLOYMENT AGREEMENT

This Employment Agreement is executed by and between People Against Drugs Affordable Public Housing Agency, a California non-profit public benefit corporation ("PAD") and Gene Christensen ("Christensen").

RECITALS

A. Christensen is presently the Executive Director of PAD. PAD and Christensen each desire to enter into this Employment Agreement to provide for the employment of Christensen as Executive Director of PAD for a term of twenty five (25) years from the date hereof.

B. PAD recognizes that Christensen possesses intimate knowledge of PAD's business, has been the primary contributor to the growth of success of such business and PAD desires to provide for the employment of Christensen pursuant to terms and conditions as stated herein.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants set forth herein, the parties agree as follows:

1. Employment

1.1 General. PAD hereby employs Christensen and Christensen hereby accepts such employment from PAD, on the terms and conditions set forth herein.

1.2 Duties of Christensen. PAD acknowledges that Christensen currently holds the title of Executive Director and, for the term of this Agreement, Christensen shall continue to hold such title. During the term of this Agreement, and subject to the limitations set forth herein, Christensen shall diligently perform all duties and services customarily performed by an Executive Director of a non-profit corporation, and shall exercise such power and authority that is customarily vested in an Executive Director and as additionally granted by PAD's Board of Directors, subject to the limitations as set forth herein. Christensen's duties shall include the administration of PAD's affairs and such other duties as are normally associated with and inherent to such capacity. Additionally, Christensen is hereby granted and is vested with all necessary and requisite power and authority to manage and conduct the business and carry out the purpose of PAD in the manner as deemed reasonable and necessary to Christensen, in his sole discretion. Christensen shall devote substantially his full time and attention to the business and affairs of PAD, render such services to the best of his ability, and use his best efforts to promote the interest

of PAD. For purposes of this Agreement, Christensen shall be fulfilling his requirement to devote substantially his full time and attention to the business and affairs of PAD if Christensen devotes an average of 40 hours per week over a 12 month period, save and except three full weeks vacation during such period. Christensen shall continue to remain as a member of the Board of Directors of PAD and shall not be removable, except for Cause.

2. Term. The employment of Christensen hereunder shall be for a period of twenty five (25) years, commencing on June __, 1996 and continuing through November __, 2021, unless sooner terminated in accordance with terms and conditions thereof.

3. Compensation. PAD shall pay the Christensen a base salary (the "Base Salary") commensurate with the salary of comparable Executive Directors of non-profit organizations engaged in similar type of activity. For example, in 1996 this amount shall be \$102,000.00. The Base Salary shall be payable in installments consistent with PAD's normal payroll schedule and shall be subject to applicable withholding and other taxes. The Base Salary shall also be annually adjusted upward to keep pace with the Cost of Living Index, as it is set from time to time.

4. Expense Reimbursement and Other Benefits.

4.1 Reimbursable Expenses. Subject to the rules and procedures adopted by PAD from time to time regarding the reporting of expenses, during the term of Christensen's employment hereunder, PAD shall reimburse Christensen for all expenses incurred by Christensen in connection with the performance of his duties on behalf of PAD.

4.2 Other Benefits. Christensen shall be entitled to receive the medical and hospitalization, group life insurance, pension, and all other benefits which are customarily provided to executive directors of similar non-profit entities.

4.3 Working Facilities. PAD shall furnish Christensen with an office, secretarial and administrative support, and such other facilities and services suitable to his position and adequate for the proper performance of his duties hereunder.

4.4 PAD shall also provide Christensen with a vehicle to be replaced periodically, based on reasonable wear and tear.

5. Termination.

5.1 Termination for Cause. PAD shall have the right, upon written notice to Christensen, to terminate Christensen's employment for "Cause" (as hereinafter defined). For purposes of this Agreement, "Cause" shall mean (i) during any time period while Christensen is employed by PAD, any failure or refusal of Christensen

to devote substantially his full time and attention to the business and affairs of PAD, which failure shall not be cured within thirty (30) business days after written notice by PAD of such failure or (ii) any fraud or embezzlement by Christensen against PAD as determined by a court of competent jurisdiction. Upon any termination pursuant to this Section 5.1, Christensen shall be paid his Base Salary to the date of termination and PAD shall have no further liability hereunder (other than for reimbursement for reasonable business expenses incurred prior to the date of termination, subject to the provisions of Section 4.1). Provided that Christensen devotes substantially his full time and attention to the affairs of PAD, nothing in this Agreement shall prohibit Christensen from, directly or indirectly, providing consulting services or participating in or owning other businesses, provided such services or businesses do not conflict with Christensen's employment with PAD.

5.2 Disability. PAD shall at all times have the right upon sixty (60) days prior written notice to Christensen, to terminate Christensen's employment hereunder if Christensen shall, as a result of any mental or physical incapacity, illness or disability, be unable to fully perform his duties hereunder for one hundred eighty (180) days during any twelve (12) month period. Upon a termination pursuant to this Section 5.2, Christensen shall be paid his Base Salary at its current level (plus any other then-earned compensation) to the date of termination, half of Christensen's Base Salary for the next twelve (12) months (over and above all insurance benefits to be received by Christensen), and any and all expense reimbursements to which Christensen is entitled to receive.

5.3 Death. In the event of the death of Christensen during the term of his employment hereunder, PAD shall pay to the estate of Christensen any unpaid Base Salary (plus any other than-earned compensation) to the date of his death, one-half ($\frac{1}{2}$) of his Base Salary at its current level over the next twelve (12) months (over and above all insurance benefits to be paid to Christensen) and any and all expense reimbursements to which Christensen is entitled to receive.

6. Authority of Christensen. The Board of Directors of PAD have determined, as evidenced by an appropriate resolution dated November 24, 1995 that Christensen is vested with the full power and authority to act on behalf of PAD and sign any and all documents for PAD.

7. Governing Law. This Agreement should be governed and construed in accordance with the laws of the State of Texas.

8. Entire Agreement; Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, understandings and arrangements, both oral and written between Christensen and PAD with respect to any such matter. This Agreement may not be modified in any way unless by written instrument signed by both PAD and Christensen.