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7

8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

9 **COUNTY OF IMPERIAL**

10
11 SALTON SEA VENTURE, INC., a
California corporation,

12 Plaintiff,

13 v.

14 ROBERT RAMSEY, an individual, and
15 FIRST AMERICAN PETROLEUM, an
unknown business entity, and DOES 1
16 through 30, inclusive,

17 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES FOR B&P
§ 17043, B&P § 17200, DECLARATORY
RELIEF, INJUNCTIVE RELIEF,
COMMON LAW UNFAIR
COMPETITION, INTENTIONAL
INTERFERENCE WITH PROSPECTIVE
BUSINESS ADVANTAGE, NEGLIGENT
INTERFERENCE WITH PROSPECTIVE
BUSINESS ADVANTAGE, CIVIL
CONSPIRACY**

JURY TRIAL DEMANDED

18
19 Plaintiff SALTON SEA VENTURE, INC., a California corporation, (“Plaintiff”) hereby
20 complains and alleges against Defendants ROBERT RAMSEY, an individual, FIRST AMERICAN
21 PETROLEUM LLC (“FAP”), and DOES 1 through 30, inclusive (FAP and DOES are collectively
22 referred to as “Defendants”) as follows:

23 **PARTIES**

24 1. Plaintiff is a validly existing California corporation organized and existing and in
25 good corporate standing under the laws of California for all times relevant herein. Plaintiff’s
26 business is operated at 2084 S. Marina Drive, Salton City, California 92275, and is located in the
27 County of Imperial.

28 2. Based upon information and belief, it is alleged that FAP is a business entity of

1 unknown form with an office or place of business located at 3089 Norm Niver Road, Salton Sea,
2 California, in the County of Imperial.

3 3. Based upon information and belief it is alleged that FAP has not filed the necessary
4 and appropriate documents with the California Secretary of State in order to conduct business in
5 California.

6 4. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as
7 DOES 1 through 30, inclusive, and therefore sues these Defendants by such fictitious names.
8 Plaintiff will amend this Complaint to allege the true names of these Defendants as their true names
9 and identities and capacities are ascertained. Plaintiff is informed and believes, and thereupon
10 alleges, that each fictitiously named Defendant is responsible in some manner for the occurrences
11 alleged and that Plaintiff's damages and injuries were proximately caused by Defendants and each
12 and every other defendant and their actions.

13 5. Plaintiff is informed and believes, and thereupon alleges, that at all times relevant
14 herein mentioned, each of the defendants was the agent, servant, representative, partner and/or
15 employee of each of the remaining defendants, and in performing the acts herein alleged was acting
16 under the course and scope of such agency, service, representation or employment.

17 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

18 6. In the spring of 2009, Plaintiff constructed an ARCO fuel station and a 10,000
19 square foot travel center/mini-mart on a 4.5 acre parcel (hereinafter referred to as "Plaintiff's Fuel
20 Station") at a cost of over eleven million dollars (\$11,000,000). Plaintiff's Fuel Station has five
21 registers and a full liquor license to sell hard liquor as well as beer and wine. In addition, Plaintiff's
22 Fuel Station has two entitled and paved fast food drive-through pads, a truck scale and a
23 laundromat. Plaintiff's Fuel Station is considered one of the largest in California and provides
24 Plaintiff with significant purchasing power when it purchases fuel and store items in bulk.

25 7. Plaintiff's Fuel Station is located at the Borrego Springs SR-22 turnoff of Highway
26 86. Highway 86 connects to Highway 10 and Coachella Valley to the north and Highway 8 (El
27 Centro) to the south. Over two million tourists per year travel to Glamis Sand Dunes for off road
28 activities and another 250,000+ visitors visit the Salton Sea for fishing, boating, water skiing, etc.

1 The proximity to these areas brings in significant fuel sales which, in turn, drive significant in-store
2 business for the cars and trucks that come up from the Mexican border and El Centro to get to
3 Coachella Valley and Palm Desert.

4 8. Based upon information and belief it is alleged that FAP began importing fuel from
5 Nevada for sale at 3089 Norm Niver Road, Salton Sea, California, in June of 2009 (hereinafter
6 referred to as "Defendants' Fuel Station"). Defendants' Fuel Station is located approximately six
7 miles from Plaintiff's Fuel Station, sells the same types of fuel and is therefore within the same
8 local market.

9 9. Based upon information and belief it is alleged that FAP took over direct sales of
10 fuel on or about May 2011 at Defendants' Fuel Station.

11 SELLING FUEL BELOW COST

12 10. Based upon information and belief it is alleged that on February 17, 2011, and
13 continuing at least for a period of several days, Defendants' advertised price to non-tribal member
14 and/or persons not residing on an Indian Reservation for a gallon of regular unleaded gasoline at
15 Defendants' Fuel Station was \$3.39.

16 11. During the same period of time, the average price for a gallon of regular unleaded
17 gasoline in the same market area, defined to include Salton City, California, was \$3.99.

18 12. Based upon information and belief it is alleged that on May 13, 2011, and continuing
19 for the period of at least 27 days, FAP was selling a gallon of regular gasoline to non-tribal
20 members for \$3.55.

21 13. During the same period of time, the average price for a gallon of regular unleaded
22 gasoline in the same market area was \$3.99.

23 14. On other occasions during 2011, Defendants were selling regular gasoline at thirty-
24 four cents (\$0.34) per gallon below market price and diesel fuel at twenty-four cents (\$0.24) per
25 gallon below market price.

26 15. Thus, FAP was selling and continues to sell gasoline at a price below its cost in
27 order to gain an unfair business advantage over Plaintiff and those similarly situated and cause
28 economic injury, unfairly compete and to divert business from Plaintiff and those similarly situated

1 for the purpose of ultimately driving Plaintiff and those similarly situated in the same market out of
2 business.

3 FAILING TO COLLECT/REMIT TAXES

4 16. Based upon information and belief it is alleged FAP gained its unfair advantage, at
5 least in part, by failing to collect and/or remit certain taxes on the fuel imported from Nevada.

6 17. A person or entity that imports fuel from outside of California is defined as an
7 “enterer” pursuant to Revenue and Taxation Code sections 7311, 60013, and is required to collect
8 and/or prepay certain taxes to the State Board of Equalization (hereinafter referred to as “BOE”).

9 18. A person or entity that owns, operates or otherwise controls a terminal is defined as a
10 “terminal operator” pursuant to Revenue and Taxation Code sections 7340, 60009, and is required
11 to collect and/or prepay certain taxes to the BOE.

12 19. A person or entity that that owns motor vehicle fuel within the bulk transfer/terminal
13 system (other than in a terminal) or is a “position holder” (as set forth below) is defined as a
14 “throughputter” pursuant to Revenue and Taxation Code sections 7341, 60035, and is required to
15 collect and/or prepay certain taxes to the BOE.

16 20. As defined in to Revenue and Taxation Code sections 7332, 60010, “position
17 holder” includes any person that holds the inventory position in the motor vehicle fuel, as reflected
18 on the records of the terminal operator. A person holds the inventory position in motor vehicle fuel
19 when that person has a contractual agreement with the terminal operator for the use of storage
20 facilities and terminaling services at a terminal with respect to the motor vehicle fuel. “Position
21 holder” includes a terminal operator that owns motor vehicle fuel in its terminal. A position holder
22 is required to collect and/or prepay certain taxes to the BOE.

23 21. Based upon information and belief it is alleged that FAP is an “enterer” and/or
24 “terminal operator” and/or “throughputter” and/or “position holder” as a result of its actions of
25 importing fuel from Nevada and is therefore liable for prepayment of all applicable tax.

26 22. However, based upon information and belief it is alleged that FAP does not collect
27 and/or pay and/or prepay taxes like Plaintiff and others similarly situated for all times relevant
28 herein.

1 23. Based upon information and belief it is further alleged that Defendants do not pay
2 the statutorily required underground storage fees of approximately two cents (\$0.02) per gallon on
3 fuel as well as a Superfund fee of a tenth of a cent (\$0.001) per gallon that Plaintiff and other
4 station owners must pay.

5 24. On or about March 19, 2011, the BOE issued Tax Opinion Request 10-475:
6 Application of Sales and Excise Taxes to Fuels Imported into California and Sold at Indian Owned
7 Service Stations (hereinafter referred to as "BOE Tax Opinion"). The BOE Tax Opinion is attached
8 hereto as Exhibit 1. As set forth therein, and in various statutes and case law, the BOE determined
9 that tribes or individuals that import fuel into the state must pay both prepay sales and pay excise
10 taxes on the fuel. In addition, Indian retailers must collect and remit to the board use tax on sales of
11 gas and diesel fuel on the reservation whether it is to non-Indians or Indians who do not reside on
12 the reservation.

13 25. Based upon information and belief it is alleged that in order to avoid collection/
14 payment/prepayment of those certain taxes and thereby sell fuel at below market cost, FAP, at all
15 times relevant herein, is and has been importing fuel from the State of Nevada for sale at
16 Defendants' Fuel Station to non-tribal member and/or persons not residing on an Indian
17 Reservation as required by California Code of Regulations, Title 18, Section 1616.

18 26. Based upon information and belief it is alleged that Defendants have failed to pay
19 various taxes to the California BOE in excess of three million dollars (\$3,000,000) over the last
20 several years which constitutes an illegal competitive advantage and profits, which was and is
21 reflected in the price of fuel sold at Defendants' Fuel Station.

22 27. As a result of Defendants' failing to collect and/or remit certain taxes, Defendants
23 are able to illegally and improperly advertise and sell fuel at a lower rate than the cost of fuel sold
24 by Plaintiff and those similarly situated.

25 SELLING FUEL THAT FAILS TO MEET CALIFORNIA STANDARDS

26 28. California requires that the fuel sold for use on California's roads meet certain
27 minimum requirements. One such requirement relates to the oxygen content of reformulated gas
28 ("RFG").

1 29. The legal minimum oxygen content required for RFG sold in California is five
2 percent (5%).

3 30. Fuel with a lower minimum oxygen content is less costly to produce and therefore
4 less costly to sell. However, California has determined that fuel with a lower minimum oxygen
5 content poses a danger and hazard to the California environment.

6 31. Based upon information and belief it is alleged that the fuel imported by FAP from
7 Nevada does not meet the requirements of California for RFG and therefore may not legally be sold
8 in California.

9 32. FAP is importing fuel which contains three point five percent (3.5%) oxygen which
10 is the legal minimum requirement in Clark County, Nevada, the point of origination (exportation) of
11 the fuel sold at Defendants' Fuel Station.

12 33. Thus the fuel imported by FAP, as the "enterer" and/or "terminal operator" and/or
13 "throughputter" and/or "position holder," does not meet the minimum legal standards for RFG and
14 may not be sold for use on California roads.

15 34. The Defendants' purpose in illegally importing and illegally selling fuel to
16 California customers is to gain an unfair economic advantage over Plaintiff and those similarly
17 situated by selling fuel at a cost below market at Defendants' Fuel Station.

18 35. Defendants' attempts to gain an unfair and illegal business advantage are further
19 evidenced by FAP's failure to properly register as a business with the California Secretary of State.

20 36. Plaintiff put Defendants on notice through demand letter sent on June 23, 2011, a
21 copy of which is attached hereto as Exhibit 2.

22 37. Plaintiff attempted to resolve this matter with Defendants, by way of the
23 aforementioned demand letter requiring Defendants to cease and desist, but Defendants refused and
24 continue to refuse to stop illegally selling (non-approved) fuel at unfair prices that do not include
25 the payment of all taxes.

26 38. Plaintiff has contacted the State of California and Imperial County for assistance in
27 remedying the illegal, improper, and unfair practices of Defendants to no avail.

28 39. None of Defendants' sales involved close outs of discontinued products, seasonal or

1 perishable goods, damaged goods or were compelled at law or to meet the legal price of a
2 competitor.

3 FAILURE TO REGISTER AS A FOREIGN BUSINESS ENTITY

4 40. Before transacting intrastate business in California, a business must first
5 qualify/register with the California Secretary of State. (California Corporations Code §§ 2105,
6 15909.02, 16959 or 17451.) California Corporations Code sections 191, 15901.02(ai) and
7 17001(ap) define “transacting intrastate business” as entering into repeated and successive
8 transactions of its business in this state, other than interstate or foreign commerce.

9 41. Based upon information and belief it is alleged that FAP is an out-of-state entity,
10 with a principal place of business outside California and FAP has failed to qualify/register with the
11 California Secretary of State.

12 42. Based upon information and belief it is alleged that FAP has failed to qualify/register
13 with the California Secretary of State in order to gain an unfair, illegal, and improper economic
14 advantage, avoid oversight by the State of California and certain state agencies, and avoid paying
15 all required fees in order to enable FAP to conduct its business at a lower cost than legally operated
16 businesses, such as Plaintiff.

17 DERIVATIVE DAMAGES

18 43. The travel center/mini-mart located at Plaintiff’s Fuel Station derives much of its in-
19 store sales from patrons refueling vehicles. This is because patrons purchasing fuel routinely
20 patronize the mini-mart.

21 44. The travel center/mini-mart at Plaintiff’s Fuel Station sells considerably more than
22 simple sundries. The travel center/mini-mart sells food, desserts, camping supplies, hot and cold
23 beverages, tobacco, motorcycle parts, automotive parts, truck parts, cigarettes, pet food, hygiene
24 products, over-the-counter medicines, postcards, magazines, books, stationary, recreational vehicle
25 supplies, clothing, beer, wine and liquor (hereinafter referred to as “non-fuel sales”).

26 45. As a result of Defendant’s actions as alleged herein, Plaintiff’s non-fuel sales,
27 beginning on May 12, 2011, are down thirty (30%). Plaintiff’s lost sales amount to at least three
28 thousand dollars (\$3,000.00) per day. Thus, Plaintiff has suffered a loss of non-fuel sales in an

1 amount in excess of \$68,000 and accruing.

2 INTERFERENCE WITH PROSPECTIVE SALE

3 46. On or about March 1, 2011, Plaintiff listed Plaintiff's Fuel Station for sale.

4 47. After negotiations, on or about June 6, 2011, Plaintiff received a bid for the sale of
5 Plaintiff's Fuel Station with GNC Properties, Inc. ("Buyer") for a purchase price of ten million
6 dollars (\$10,000,000.00).

7 48. In correspondence dated July 7, 2011, Buyer advised Plaintiff that Buyer was
8 cancelling escrow due to Defendants' acts of selling fuel below cost.

9 49. Thus, as a legal, actual, and proximal result of Defendants' actions, Plaintiff has
10 suffered a loss of the sale of Plaintiff's Fuel Station.

11 **FIRST CAUSE OF ACTION**

12 (B & P § 17043 – Unlawful Below Cost Sales – Against All Defendants)

13 50. Plaintiff incorporates herein by reference Paragraphs 1 through 49 of the Complaint
14 as though fully set forth herein.

15 51. Plaintiff is informed and believes and thereon alleges that Defendants' sales prices
16 are below Defendant's cost due, at least in part, to Defendants' selling fuel without collecting
17 and/or remitting taxes due and owing as alleged herein.

18 52. Plaintiff is informed and believes and thereon alleges that Defendants' sales prices
19 are below Defendant's cost due, at least in part, to Defendants' selling fuel that does not meet the
20 requirements for RFG in California

21 53. Plaintiff is informed and believes and thereon alleges that Defendants' conduct and
22 performance of the above-mentioned acts were for the purpose of injuring Plaintiff and destroying
23 competition.

24 54. Plaintiff is informed and believes and thereon alleges that unless Defendants'
25 conduct and specific acts mentioned herein are restrained, Defendants will continue to offer to sell
26 gasoline below its cost in violation of the California Unfair Practices Act.

27 55. As a proximate result of the above-mentioned acts of Defendants, Plaintiff has been
28 damaged by the loss of gallonage sold at the approximate rate of thirty cents (\$0.30) per gallon on

1 average sales of 5,000 gallons diesel fuel per day and twenty-three cents (\$0.23) per gallon on
2 average sales of 3,000 gallons of unleaded gasoline per day. Plaintiff's damages regarding fuel
3 sales are approximately \$86,400 and accruing.

4 56. Plaintiff is informed and believes and thereon alleges that as a direct result of
5 Defendants' unlawful conduct, Plaintiff has suffered fuel-sales-related damages in the amount of
6 \$86,400, plus pre- and post-judgment interest to be earned on this balance, plus punitive
7 (exemplary) damages, plus injunctive relief, plus other damages according to proof at trial.

8 57. Plaintiff is entitled to costs and attorney's fees in bringing this action against
9 Defendants, and each of them, as provided for by statute.

10 SECOND CAUSE OF ACTION

11 (B & P § 17200 – Unfair Business Practices – Against All Defendants)

12 58. Plaintiff incorporates herein by reference Paragraphs 1 through 57 of the Complaint
13 as though fully set forth herein.

14 59. California Business and Professions Code section 17200 ("section 17200") prohibits
15 all acts described as unfair, deceptive or unlawful business practices. Section 17200 creates a
16 private right of action to enforce laws and statutes not otherwise subject to private enforcement.

17 60. Defendants, by their conduct, acts and performance/non-performance as alleged
18 herein, unfairly, deceptively and unlawfully injured Plaintiff when it sold or caused to enter
19 California certain fuel without paying certain taxes and/or without meeting California's standards
20 for RFG and/or selling fuel below cost. Defendants, and each of them, undertook such actions with
21 knowledge of their unlawfulness, unfairness and deceptive nature.

22 61. Plaintiff is informed and believes and thereon alleges that as a direct result of
23 Defendants' unlawful conduct, Plaintiff has suffered damages in the amount of \$55,000, plus pre-
24 and post-judgment interest to be earned on this balance, plus punitive (exemplary) damages, plus
25 injunctive relief, plus other damages according to proof at trial.

26 62. Plaintiff is entitled to costs and attorney's fees in bringing this action against
27 Defendants, and each of them, as provided for by statute.

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1 **THIRD CAUSE OF ACTION**

2 (Declaratory Relief – Against All Defendants)

3 63. Plaintiff incorporates herein by reference Paragraphs 1 through 62 of the Complaint
4 as though fully set forth herein.

5 64. An actual controversy has arisen and now exists between Plaintiff and Defendants as
6 to their respective rights, duties, obligations and liabilities. Plaintiff contends that the Defendants
7 sought to gain an unfair economic advantage as set forth herein by failing to pay excise and/or sales
8 taxes and/or selling fuel below cost. Defendants’ actions violate state statutes and other applicable
9 regulations in order to gain an unfair business advantage not enjoyed by Plaintiff and those
10 similarly situated.

11 65. A controversy exists as to what amounts Defendants are undercharging in order to
12 gain this unfair advantage.

13 66. Plaintiff desires a judicial determination of the respective rights and duties of
14 Plaintiff and Defendants and the amount of damages incurred by Plaintiff.

15 **FOURTH CAUSE OF ACTION**

16 (Injunctive Relief – Against All Defendants)

17 67. Plaintiff incorporates herein by reference Paragraphs 1 through 66 of the Complaint
18 as it fully set forth herein.

19 68. Plaintiff’s injuries are unique and not quantifiable.

20 69. Defendants’ acts have damaged Plaintiff and will continue to damage Plaintiff and
21 Plaintiff has no adequate remedy at law.

22 70. Therefore, a temporary restraining order and a temporary and permanent injunction
23 are necessary to protect the interests of Plaintiff.

24 71. A prohibitory injunction is necessary to prohibit Defendants from charging a below
25 market rate for its fuel and selling fuel that does not meet California’s RFG standards.

26 72. Conversely, a mandatory injunction is necessary to require Defendants to charge
27 market rate for its fuel and, to the extent Defendants sell fuel in the future, Defendants may only
28 sell fuel that meets California’s RFG standards.

1 **FIFTH CAUSE OF ACTION**

2 (Common Law Unfair Competition – Against All Defendants)

3 73. Plaintiff incorporates herein by reference Paragraphs 1 through 72 of the Complaint
4 as though fully set forth herein.

5 74. Plaintiff operates a gas station in compliance with California statutes and
6 regulations.

7 75. Defendants' unlawful acts of selling fuel below cost and/or failing to pay taxes
8 and/or selling fuel that did not meet California's RFG standards were and are intended to unfairly
9 gain economic advantage and illegally capture business that would otherwise patronize Plaintiff for
10 Defendants' pecuniary gain.

11 76. Plaintiff has expended substantial time, resources and efforts in order to obtain an
12 excellent reputation for its brand, location and prices. As a result of Plaintiff's efforts, Defendants
13 are now unjustly enriched and benefitted from property rights that rightfully belong to Plaintiff.

14 77. Defendants' below market advertising and sales caused, and is likely to further
15 cause, confusion as to the source, quality and costs of both Plaintiff's and Defendants' products, all
16 to the detriment of Plaintiff.

17 78. Defendants' acts are willful, deliberate, and intended to confuse the public and to
18 injure Plaintiff.

19 79. Defendants' acts constitute unfair competition under California common law.

20 80. As a result, Plaintiff has been irreparably harmed and will continue to be irreparably
21 harmed as a result of Defendants' unlawful acts unless Defendants are permanently enjoined from
22 their unlawful conduct.

23 81. Defendants' conduct, as set forth herein, was and is extreme, outrageous, fraudulent,
24 and inflicted on Plaintiff in reckless disregard for Plaintiff's rights. Said conduct was despicable
25 and harmful to Plaintiff and, as such, supports an award of exemplary and punitive damages in an
26 amount sufficient to punish and make an example of Defendants and to deter them from similar
27 such conduct in the future.

28 82. Defendants' acts have damaged Plaintiff and will continue to damage Plaintiff and

1 Plaintiff has no adequate remedy at law.

2 83. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting
3 Defendants from selling fuel below cost and Plaintiff is entitled to recover the value of lost sales as
4 well as the value of the improper economic advantage, profits, and gains enjoyed by Defendants
5 from their unlawful conduct, as well as any other legal damages, plus attorney's fees, as well as the
6 costs of this action.

7 **SIXTH CAUSE OF ACTION**

8 (Intentional Interference with Prospective Business Advantage – Against All Defendants)

9 84. Plaintiff incorporates herein by reference Paragraphs 1 through 83 of the Complaint
10 as though fully set forth herein.

11 85. During the relevant times noted herein, Defendants, and each of them, had
12 knowledge of the illegal, improper and unfair nature of their acts and/or omissions.

13 86. Defendants, and each of them, knew and understood that lawful compliance and
14 competition requires a competitive price on fuel.

15 87. Defendants, and each of them, knew that by their acts, in failing to collect and/or pay
16 taxes, and/or selling fuel that did not meet California's RFG standards and/or selling fuel below
17 cost would and did result in disruption of the current and future potential relationship Plaintiff
18 enjoyed and was to enjoy with each current and future patron.

19 88. As a result of Defendants' actions or inactions as alleged herein, Defendants, and
20 each of them, have disrupted and will continue to disrupt the potential future contractual
21 relationship Plaintiff enjoys with its patrons.

22 89. Plaintiff is informed and believes and thereon alleges that as a result of Defendants'
23 conduct Plaintiff has suffered damages in the amount in excess of \$155,000, plus pre- and post-
24 judgment interest to be earned on this balance, plus attorney's fees, plus punitive (exemplary)
25 damages, plus injunctive relief, plus other damages according to proof at trial.

26 **SEVENTH CAUSE OF ACTION**

27 (Negligent Interference with Prospective Business Advantage – Against All Defendants)

28 90. Plaintiff incorporates herein by reference Paragraphs 1 through 89 of the Complaint

1 as though fully set forth herein.

2 91. During the relevant times noted herein, Defendants, and each of them, had a duty to
3 act as a reasonably prudent person, obey all laws and obligations, but have not as alleged herein.

4 92. Defendants, and each of them, breached that duty by failing to act as a reasonably
5 prudent person, including the failure to obey laws and regulations.

6 93. Plaintiff is informed and believes and thereon alleges that as a direct, legal and
7 proximate cause of Defendants' negligent conduct, Plaintiff has suffered damages in excess of the
8 amount of \$155,000, plus pre- and post-judgment interest to be earned on this balance, plus
9 attorney's fees, plus other damages according to proof at trial.

10 **EIGHTH CAUSE OF ACTION**

11 (Civil Conspiracy – Against All Defendants)

12 94. Plaintiff incorporates herein by reference paragraphs 1 through 93 of the Complaint
13 as though fully set forth herein.

14 95. Plaintiff is informed and believes and thereon alleges that Defendants agreed to
15 undertake the actions or inactions as alleged herein in furtherance of accomplishing an unlawful
16 purpose of importing fuel that did not meet California's RFG standards, failing to pay taxes in order
17 to gain an illegal competitive advantage and illegally selling fuel below cost.

18 96. Plaintiff is informed and believes and thereon alleges that as a direct result of
19 Defendants' conduct, Plaintiff has suffered damages according to proof at trial, plus pre- and post-
20 judgment interest.

21 **PRAYER**

22 Plaintiff Salton Sea Venture, Inc., prays for judgment against Defendants, and each of them,
23 as follows:

24 First Cause of Action

25 1. For an order requiring Defendants, and each of them, to show cause, if any they
26 have, why they should not be enjoined as set forth below during the pendency of this action;

27 2. For a temporary restraining order, a preliminary injunction and a permanent
28 injunction enjoining Defendants, and each of them, from offering to sell or selling any article or

1 product below cost.

2 3. For trebled damages in the amount of \$ 465,000;

3 4. For reasonable attorney's fees and costs of suit; and

4 5. For any other and further relief as the Court may deem just and proper.

5 Second Cause of Action

6 1. For an order requiring Defendants, and each of them, to show cause, if any they
7 have, why they should not be enjoined as set forth below during the pendency of this action;

8 2. For a temporary restraining order, a preliminary injunction and permanent injunction
9 enjoining Defendants, and each of them, from offering to sell or selling any article or product below
10 cost;

11 3. For reasonable attorney's fees and costs of suit; and

12 4. For any other and further relief as the Court may deem just and proper.

13 All Causes of Action

14 1. For an order declaring that Defendants, and each of them, sold fuel below cost in
15 order to obtain an unfair business advantage and a temporary restraining order and permanent
16 injunction prohibiting (a) Defendants from doing business in California until they file the necessary
17 documents with the California Secretary of State, (b) from selling fuel below cost, (c) selling fuel
18 without payment of taxes and (d) selling fuel that fails to meet the California's RFG standards.

19 2. For an order declaring that as a result of Defendants' actions selling fuel below cost,
20 Plaintiff suffered legal damages in an amount to be proven at trial;

21 3. For all compensatory and pecuniary losses sustained by Plaintiff as a result of
22 Defendants seeking and gaining an unfair business advantage;

23 4. For reasonable attorney's fees;

24 5. For costs of suit herein incurred;

25 6. For treble damages; and

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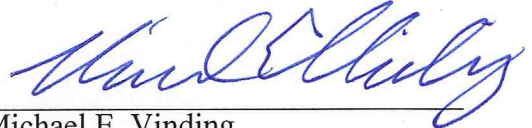
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7. For such other and further relief as the Court may deem just and proper.

Dated: July 27, 2011

BRADY & VINDING

By: 
Michael E. Vinding
Attorneys for Plaintiff
Salton Sea Venture, Inc.