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8 Attorneys for Plaintiff ANDREW MAROCCO a.k.a
9 ROUTE 66 SPEED SHOP

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE

ANDREW MAROCCO a.k.a ROUTE 66
SPEED SHOP,

Plaintiff,

vs.

CITY OF BANNING; BANNING
CHAMBER OF COMMERCE, business
form unknown; DOUG SCHULZE, as an
individual and as an agent of the City of
Banning; KYLE PINGREE, as an
individual and as an agent of the City of
Banning; ROBERT YBARRA as an
individual and as an agent of the Banning
Chamber of Commerce and DOES 1 to 50,
inclusive,

Defendants.

CASE NO. CVRI 2202577

COMPLAINT FOR:

1. FRAUD – INTENTIONAL DECEIT
2. FRAUD – INTENTIONAL DECEIT
3. SUPPRESSION OF FACT
4. CONSPIRACY TO COMMIT FRAUD
5. CONSPIRACY TO COMMIT FRAUD
6. UNJUST ENRICHMENT

JURY TRIAL DEMANDED

Plaintiff ANDREW MAROCCO a.k.a. ROUTE 66 SPEED SHOP (“Plaintiff”), allege as follows:

PARTIES

1. Plaintiff ANDREW MAROCCO a.k.a ROUTE 66 SPEED SHOP (Hereinafter “Plaintiff”) is an individual residing in Riverside County, California.

2. Plaintiff is informed and believes, and on that basis alleges, that Defendant CITY OF BANNING, (Hereinafter (“CITY”) is a city in the county of Riverside, California.

1 3. Plaintiff is informed and believes, and on that basis alleges, that Defendant
2 BANNING CHAMBER OF COMMERCE, (Hereinafter "CHAMBER") is a business form
3 unknown in the county of Riverside, California.

4 4. Plaintiff is informed and believes, and on that basis alleges, that Defendant DOUG
5 SCHULZE (Hereinafter "SCHULZE") is an individual and an agent of the City of Banning residing
6 in Riverside, California.

7 5. Plaintiff is informed and believes, and on that basis alleges, that Defendant KYLE
8 PINGREE (Hereinafter "PINGREE") is an individual residing in Riverside, California and an agent
9 of the City of Banning.

10 6. Plaintiff is informed and believes, and on that basis alleges, that Defendant
11 ROBERT YBARRA (Hereinafter "YBARRA") is an individual residing in Riverside, California
12 and as an agent of the Banning Chamber of Commerce.

13 7. Plaintiff is informed and believes, and on that basis alleges, that, pursuant to Code
14 of Civil Procedure § 474, the fictitiously named defendants sued herein as Does 1 through 50,
15 inclusive, and each of them, were in some manner responsible or legally liable for the actions,
16 events, transactions, and circumstances alleged herein. The true names and capacities of such
17 fictitiously named defendants, whether individual, corporate, associate or otherwise, are presently
18 unknown to Plaintiff, and Plaintiff will seek leave of Court to amend this Complaint to assert the
19 true names and capacities of such fictitiously named defendants when the same have been
20 ascertained. For convenience, each reference herein to a named defendant or to "Defendants"
21 collectively shall also refer to the Doe Defendants, and each of them.

22 8. Plaintiff is informed and believes, and on that basis alleges, that Defendants, and
23 each of them, were the agents, employees, partners, joint-venturers, co-conspirators, owners,
24 principals, and employers of the other Defendants, and each of them, and are, and at all times herein
25 mentioned were, acting within the course and scope of that agency, partnership, employment,
26 conspiracy, ownership, or joint venture. Plaintiff is further informed and believes, and on that basis
27 allege, that the acts and conduct herein alleged of each such Defendant were known to, authorized
28 by, and/or ratified by other Defendants, and each of them.

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1 BanningStreetDrags.com.

2 17. On or about March 10, 2020, PINGREE was elected after a special election and
3 sworn into the Banning City Council representing District 2 to finish out the incumbent's term of 1
4 year.

5 18. On or about June 2020, Councilman PINGREE telephoned Plaintiff to tell him that
6 he had convinced the City Manager, SCHULZE, to allow the holding of Drag Races at the Banning
7 Municipal Airport, but that they would need to work in conjunction with the CHAMBER.

8 19. On or about July 2020, Plaintiff created and designed the Logo for the Banning
9 Street Drags and designed the website for the Banning Street Drags.

10 20. On or about July 10, 2020, the Public Works Director, Art Vela emailed the City
11 Manager, SCHULZE stating, "It was clear from our discussions with the FAA on the last go that it
12 would be difficult to get their buy off. We'll have to decide to move forward with an event without
13 FAA's approval".

14 21. On or about July 31, 2020, City Manager, SCHULZE emailed stating his decision,
15 "we are going to hold drag racing event at the airport on August 14 & 15. This may result in a stern
16 scolding from the FAA, but I've decided that the financial situation warrants more aggressive action
17 on our part to generate revenue."

18 22. On or about August 10, 2020, the August 14-15 Drag Race Event was cancelled by
19 the CITY due a wildfire emergency and the need to use of the airport by firefighting helicopters &
20 aircraft.

21 23. On or about September 12, 2020, Plaintiff created the artwork for the Banning Street
22 Drags flyers.

23 24. On or about September 29, 2020, Plaintiff submitted a Temporary Use Permit
24 Application for Banning Street Drags events #1 and #2 to be held at the Banning Municipal Airport.

25 25. On or about October 12, 2020, the I-10 Motorsports partnership was formed and a
26 Profit Share Agreement was signed by Plaintiff, YBARRA and PINGREE.

27 26. On or about October 14, 2020, Plaintiff designed and created the Banning Street
28 Drags Souvenir Program.

1 27. On or about October 17, 2020, the Banning Street Drags # 1 was held at the Banning
2 Municipal Airport. On or about October 18, 2020, the Banning Street Drags #2 was held at the
3 Banning Municipal Airport

4 28. On or about October 26, 2020, the Plaintiff submitted a Temporary Use Permit
5 Application (TUP) for Banning Street Drags event #3 to the CITY.

6 29. On or about October 27, 2020, Director of Public Works, Art Vela issued Conditions
7 of Approval for TUP 20-8109, the Banning Street Drags event at the Banning Municipal Airport.

8 30. On or about October 28, 2020, CITY Manager, DOUG SCHULZE sent an email to
9 Plaintiff stating that the FAA issues, "... really [aren't] that big of a deal". On or about November
10 6, 2020, Public Works Director, Art Vela submitted a letter to FAA regarding the continued drag
11 races at the airport.

12 31. On or about November 2020, KYLE PINGREE is elected to CITY Council for a
13 four-year term.

14 32. On or about November 12, 2020, Community Development Director, Adam Rush
15 issued TUP 20-8109 on behalf of the CITY for the Banning Street Drags #3 race event to be held
16 at the Banning Municipal Airport.

17 33. On or about November 14, 2020, Banning Street Drags # 3 race event is held at
18 Banning Municipal Airport.

19 34. On or about December 14, 2020, the Plaintiff submitted a Temporary Use Permit
20 Application for Banning Street Drags # 4 to the CITY. On or about December 17, 2020, Adam
21 Rush issues Temporary Use Permit (TUP) on behalf of the CITY for the Banning Street Drags #4
22 race event to be held at the Banning Municipal Airport. On or about December 19, 2020,
23 Banning Street Drags # 4 race event is held at Banning Municipal Airport.

24 35. On or about January 13, 2021, Chamber president YBARRA submitted a (TUP)
25 Temporary Use Permit Application for seven Banning Street Drags events to be held at the Banning
26 Municipal Airport, on the dates of February 20, 2021, March 20, 2021, April 17, 2021, May 29,
27 2021, June 26, 2021, July 24, 2021 and August 21, 2021.

28 36. On or about January 22, 2021, the CITY sent the FAA an official request for

1 temporary closure of the airport for specific days of future drag race events.

2 37. On or about January 27, 2021, the CHAMBER paid “profits” to Route 66 Speed
3 Shop (I-10 Motorsports) for October, November, December 2020 Drag Races.

4 38. On or about January 29, 2021, Route 66 Speed Shop paid YBARRA (Precision
5 Material Handling aka PMH) and PINGREE “partner profits” (I-10 Motorsports) for October,
6 November, December 2020 Drag Races.

7 39. On or about February 10, 2021, the FAA sent a letter to CITY stating, that the CITY
8 has not fulfilled its duty to answer its concerns therefore they have denied the CITY’s request for
9 closing the airport to hold drag racing events.

10 40. On or about February 10, 2021, I-10 Motorsports LLC is officially organized in the
11 State of California. Its members include the Plaintiff, YBARRA and PINGREE.

12 41. On or about February 17, 2021, the CITY approves and issues Temporary Use
13 Permit 21-8101 for seven Banning Street Drags events to be held at the Banning Municipal Airport,
14 on the dates of February 20, 2021, March 20, 2021, April 17, 2021, May 29, 2021, June 26, 2021,
15 July 24, 2021, and August 21, 2021.

16 42. On or about February 20, 2021 – Banning Street Drags #5 held at Airport.

17 43. On or about February 23, 2021, Grandave Capital presented, to the CITY Council,
18 its plan to repurpose Banning Municipal Airport into Grandave Studios and to hear any public
19 comments or answer any public questions about the project.

20 44. On or about February 25, 2021, City Manager, SCHULZE sent Plaintiff a scolding
21 email for Public Comments on CITY Airport Plan at previous Council Meeting and states, “...I
22 don’t believe it’s in the CITY’s best interest to work with you”. This email was CC to PINGREE
23 (CITY Councilman and I-10 Motorsport LLC member) and YBARRA (Chamber President & I-10
24 Motorsport LLC member).

25 45. On or about March 10, 2021, the CHAMBER, under Chamber President, YBARRA
26 sent a letter Terminating the Agreement with Plaintiff and I-10 Motorsports.

27 46. On or about March 11, 2021, the City Manager, SCHULZE claims that “no further
28 drag racing events can be conducted at the Banning Municipal Airport until we are able to reach an

1 agreement with the FAA. The FAA has denied our request for approval of closure for drag
2 racing...”

3 47. On or about March 16, 2021, YBARRA and PINGREE resigned from I-10
4 Motorsports LLC via email. On or about March 17, 2021, Plaintiff dissolved I-10 Motorsports
5 LLC with the State of California. On or about March 29, 2021, the CHAMBER issued a final check
6 for profits to Plaintiff for Banning Street Drag event that was held on February 20, 2021.

7 48. On or about March 29, 2021, Plaintiff met with the City Manager, SCHULZE to
8 discuss the future of the Banning Street Drags. Plaintiff was informed that the CITY would continue
9 to pursue racing at the airport and that they would make Plaintiff financially whole.

10 49. On or about June 22, 2021, a regular meeting of the City Council, approved a motion
11 to direct Staff and The Parks and Recreation Commission to begin work on updating the Smith
12 Creek Master Plan document and to remove the proposed golf course. Additionally, there was
13 discussion of a proposal to include a drag strip as part of the park design/layout. The CITY Manager
14 Report stated: “With the success of drag races at Banning Municipal Airport, it is possible for the
15 CITY to generate significant revenue from racing events at Smith Creek Park”. Councilman (and
16 former I-10 motorsports partner) PINGREE voted yes to approve the motion.

17 50. On or about October 12, 2021, the City Council heard an update on the drag strip
18 proposal. The update included information on the proposed paving of a 1/4 mile drag strip, which
19 will include burn out and shutdown areas as well as return lanes. Further, the update stated that the
20 costs associated with grading, drainage and paving would be provided for through donations. The
21 drag strip would be owned by the CITY, but operation and management of the drag strip would be
22 contracted out to an organization with appropriate experience and expertise to host and operate the
23 drag racing programs. The City Council approved a Motion for staff to move forward with planning
24 for a drag strip at the Smith Creek Park site. The Motion was approved by a vote of 5-0. Motion by
25 Council Member PINGREE who voted yes.

26 51. On or about December 14, 2021, PINGREE was voted in as Mayor. On or about
27 February 8, 2022, Resolution 2022-13 was adopted approving a Professional Services Agreement
28 (PSA C007438) with Michael Baker International (MBI) for Engineering and Environmental

1 design, planning, and permitting services for Smith Creek Park. (\$408,525) Mayor/Councilman
2 PINGREE voted yes.

3 52. On or about May 31, 2022, the Plaintiff was contacted via email by Public Works
4 Director, Art Vela about the K-rail that he owned that was still sitting at the Banning Municipal
5 Airport and wanted to know when he would be moving them. The Plaintiff stated that it may be in
6 the best interest for the CITY to purchase them from him since they stopped the events and were
7 only bought for the sole purpose of the Banning Street Drags.

8 53. On or about June 8, 2022, Public Works Director, Art Vela, emailed the Plaintiff an
9 offer to purchase the K-rail for \$2,500.

10 54. On or about June 9, 2022, a Equipment Purchase Agreement was emailed to the
11 Plaintiff from the CITY. On or about June 15, 2022, the CITY entered into an Equipment Purchase
12 Agreement with Plaintiff to buy K-rail barriers that were used for the Banning Street Drags.

13 55. On or about June 14, 2022, a Notice of Intention to circulate Recall Petition to CITY
14 Mayor/Councilman PINGREE was filed. Several grounds for his recall were made, including
15 efforts to improperly use CITY property and monies for his pet project- a drag strip. He has
16 attempted to shortcut required approvals, has authorized more than \$400,000 of CITY funds for
17 feasibility studies.

18 CIVIL CONSPIRACY

19 56. Defendants, and each of them, conspired with the other defendants to commit the
20 wrongful acts alleged herein. The objective of the conspiracy was to entice plaintiff to put his
21 significant expertise, time, money, intellectual property, and knowledge of drag racing into the
22 formation and running of the Banning Street Drags. All the while, Defendants intended to use
23 plaintiff's aforementioned expertise and money for their own benefit and to secretly transfer the
24 races to another site where they could profit. These actions have caused injury and damage to
25 plaintiff including the attempted destruction of plaintiff's reputation.

26 57. Defendants, and each of them, expressly or impliedly agreed to cooperate with or
27 aid the other defendants to effect the objective of the conspiracy. Defendants, and each of them,
28 acceded to the conspiracy knowing and intending that the other defendants planned to commit some

1 or all of the wrongful acts alleged herein. Defendants, and each of them, acceded to the conspiracy
2 with the knowledge and intent that plaintiff would be harmed by the conspiracy or with reckless
3 disregard for and indifference to the probability that Plaintiff would be harmed.

4 58. Defendants committed the wrongful acts alleged herein pursuant to and in
5 furtherance of the conspiracy. Each defendant, as a co-conspirator, is liable for all acts done
6 pursuant to the conspiracy, whether the acts occurred before or after that defendant joined the
7 conspiracy.

8 59. As a direct and proximate result of the wrongful acts done pursuant to the
9 conspiracy, Plaintiff has incurred and continue to incur injury and damages as herein alleged

10 **AIDING AND ABETTING**

11 60. Plaintiff here incorporates the allegations of paragraphs 1 through 59 of this
12 complaint as though fully set forth.

13 61. Each defendant gave substantial assistance or encouragement to the other
14 defendants in committing the wrongful acts alleged herein, which assistance or encouragement was
15 a substantial factor in causing injury and damage to the Plaintiff as herein alleged.

16 **FIRST CAUSE OF ACTION**

17 **(FRAUD – INTENTIONAL DECEIT)**

18 **(Against Banning Chamber of Commerce and Robert Ibarra)**

19 62. Plaintiff hereby restate and reincorporates by reference Paragraphs 1 through 61
20 above, as though set forth in full herein.

21 63. Plaintiff was harmed because CHAMBER through Defendant YBARRA and other
22 CHAMBER representatives made false promises to Plaintiff about being a partner and running of
23 drag races events at the Banning Airport (aka Banning Street Drags) . Namely:

24 1. The plaintiff relied on the Chamber President YBARRA's word and emails
25 that the drag racing could take place at the Banning Municipal Airport.

26 2. The plaintiff was aware that the FAA in previous letters to the CITY denied
27 the use of the airport for drag racing, however the CITY Manager made assurance to the
28 YBARRA and CHAMBER that the CITY had the legal power to ignore, and hold drag

1 racing events at the airport anyway.

2 3. The plaintiff submitted an Temporary Use Permits (TUP) application(s), as
3 the event director for the Banning Street Drags to the CITY.

4 4. Once the CITY issued its first Temporary Use Permits (TUP) the Plaintiff
5 began purchasing timing equipment, materials and began spending money to brand and
6 market the races as the Banning Street Drags. Over \$25,000.00 was spent on these expenses
7 by the Plaintiff.

8 5. With the help of the CHAMBER, four successful Banning Street Drags were
9 held at the Banning Municipal Airport on the dates of October 17, 2020, October 18, 2020,
10 November 14, 2020, and December 19, 2020.

11 6. On January 13, 2021, another Temporary Use Permit Application was
12 submitted to the CITY, personally by the Chamber President YBARRA, but this time not
13 for just one event, but for seven Banning Street Drags events to be held at the Banning
14 Municipal Airport, on the dates of February 20, 2021, March 20, 2021, April 17, 2021, May
15 29, 2021, June 26, 2021, July 24, 2021 and August 21, 2021.

16 7. On February 17, 2021, the CITY issued the CHAMBER a multi-event
17 Temporary Use Permit (TUP 21-8101). This would allow seven more Banning Street Drags
18 events to be held at the Banning Municipal Airport in 2021.

19 8. On February 20, 2021, the Banning Street Drags #5 were held at Airport.

20 64. CHAMBER and YBARRA intended that Plaintiff rely on these promises and
21 actions and Plaintiff reasonably relied on these promises to his financial detriment.

22 65. CHAMBER and YBARRA did not perform the promised act. In fact, unbeknownst
23 to Plaintiff the CHAMBER and YBARRA did not intend to perform their promise of six more drag
24 races to be held at the airport. Specifically, on March 10, 2021 under the direction of Chamber
25 President, YBARRA the CHAMBER issued a letter terminating the verbal agreement with the
26 Plaintiff. The day after this happened, on March 11, 2021, the CITY Manager, SCHULZE claimed
27 in an email that, "no further drag racing events can be conducted at the Banning Municipal Airport
28 until we are able to reach an agreement with the FAA. The FAA has denied our request for approval

1 of closure for drag racing...”

2 66. After both these actions occurred, The Plaintiff confronted Chamber President
3 YBARRA with the question of what would the CHAMBER do to persuade or legally pursue the
4 CITY to make good on the already permitted 6 race dates. YBARRA and the CHAMBER chose
5 to take no legal action against the CITY.

6 67. Plaintiff was harmed and his reliance on CHAMBER and YBARRA’s promises
7 were a substantial factor in causing his harm. As a direct and proximate cause of Defendants’ and
8 CHAMBER’s Fraud and Misrepresentation, Plaintiff has suffered monetary damage and economic
9 losses of at least \$250,000.00.

10 68. The aforementioned conduct was an intentional misrepresentation, deceit and/or
11 concealment of material facts known to Defendants, with the intention on the part of Defendants of
12 thereby depriving Plaintiff of property, legal rights or otherwise causing injury and was despicable
13 conduct that subjected to cruel and unjust hardship and conscious disregard of Plaintiff’s rights, so
14 as to justify an award of exemplary and punitive damages.

15 WHEREFORE, plaintiff prays for judgment against defendants, and each of them, as more
16 fully set forth below.

17 **SECOND CAUSE OF ACTION**

18 **(FRAUD – INTENTIONAL DECEIT)**

19 **(Against the City of Banning, Doug Schulze and Kyle Pingree)**

20 69. Plaintiff hereby restate and reincorporates by reference Paragraphs 1 through 68
21 above, as though set forth in full herein.

22 68. Plaintiff was harmed because CITY through Defendant SCHULZE and other CITY
23 representatives made false promises to Plaintiff about the running of drag races at the Banning
24 Airport site. Namely:

25 1. The plaintiff relied on the CITY Manager SCHULZE’s word and emails that
26 the drag racing could take place at the Banning Municipal Airport.

27 2. The plaintiff was aware that the FAA in previous letters to the CITY denied
28 the use of the airport for drag racing, however the CITY Manager made assurance that the

1 CITY had the legal power to ignore, and hold drag racing events at the airport anyway.

2 3. The plaintiff submitted an Temporary Use Permits (TUP) application(s), as
3 the event director for the Banning Street Drags to the CITY.

4 4. Once the CITY issued its first Temporary Use Permits (TUP) the Plaintiff
5 began purchasing timing equipment, materials and began spending money to brand and
6 market the races as the Banning Street Drags. Over \$25,000.00 was spent on these expenses
7 by the Plaintiff.

8 5. With the help of the Chamber of Commerce, four successful Banning Street
9 Drags were held at the Banning Municipal Airport on the dates of October 17, 2020,
10 October 18, 2020, November 14, 2020, and December 19, 2020.

11 6. On January 13, 2021, another Temporary Use Permit Application was
12 submitted to the CITY, but this time not for just one event, but for seven Banning Street
13 Drags events to be held at the Banning Municipal Airport, on the dates of February 20,
14 2021, March 20, 2021, April 17, 2021, May 29, 2021, June 26, 2021, July 24, 2021 and
15 August 21, 2021.

16 7. On January 22, 2021, Art Vela, Public Works Director for the CITY sent
17 the FAA an official request for temporary closure of the airport for specific days of future
18 drag race events.

19 8. On February 10, 2021, Art Vela, Public Works Director for the CITY
20 received a letter from the FAA (Federal Aviation Administration) in response to his request.
21 The letter stated that the FAA had concerns about the previous drag race events that were
22 held at the airport (without their permission) and that it was denying the CITY's recent
23 request to temporarily close the airport to host any future drag race events.

24 9. The CITY ignored the FAA's denial and on February 17, 2021, issued a
25 multi-event Temporary Use Permit (TUP 21-8101). This would allow seven more Banning
26 Street Drags events to be held at the Banning Municipal Airport in 2021. This same day a
27 NOTAM (Notice to Airmen) was filled with the FAA, that showed that the Airport would
28 be closed on February 20, 2021, to aircraft.

1 10. On February 20, 2021, the Banning Street Drags #5 were held at Airport.

2 69. CITY and SCHULZE intended that Plaintiff rely on these promises and actions and
3 Plaintiff reasonably relied on these promises to his financial detriment.

4 70. CITY and SCHULZE did not perform the promised act. In fact, unbeknownst to
5 Plaintiff the CITY and SCHULZE did not intend to perform their promise of six more drag races
6 to be held at the airport when it was made. Specifically, on March 11, 2021, the CITY Manager,
7 SCHULZE claimed in an email that, "no further drag racing events can be conducted at the Banning
8 Municipal Airport until we are able to reach an agreement with the FAA. The FAA has denied our
9 request for approval of closure for drag racing..." SCHULZE stated this because he needed FAA
10 approval for another project he believed would bring in more money to the CITY. In October 2020,
11 CITY and SCHULZE, without informing Plaintiff, were secretly negotiating a deal with Grandave
12 Capital to repurpose Banning Municipal Airport into Grandave Studios. In fact, SCHULZE and
13 PINGREE were actively colluding to eliminate drag racing at the airport, and therefore Plaintiff,
14 by stopping the Banning Street Drags and secretly starting a new drag strip at Smith Creek Park.

15 71. Plaintiff was harmed and his reliance on CITY and SCHULZE's promises were a
16 substantial factor in causing his harm. As a direct and proximate cause of Defendants' and CITY's
17 Fraud and Misrepresentation, Plaintiff has suffered monetary damage and economic losses of at
18 least \$250,000.00.

19 72. The aforementioned conduct was an intentional misrepresentation, deceit and/or
20 concealment of material facts known to Defendants, with the intention on the part of Defendants of
21 thereby depriving Plaintiff of property, legal rights or otherwise causing injury and was despicable
22 conduct that subjected to cruel and unjust hardship and conscious disregard of Plaintiff's rights, so
23 as to justify an award of exemplary and punitive damages.

24 **THIRD CAUSE OF ACTION**

25 **(SUPPRESSION OF FACT)**

26 **(Against the CITY of Banning, Doug Schulze and Kyle Pingree)**

27 73. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 72
28 above as though set forth in full herein.

74. Defendants CITY, SCHULZE and PINGREE were duty-bound to disclose to Plaintiff that defendant they were actively negotiating with Grandave Studios and that they planned to open another drag strip at Smith Creek Park.

75. The representations and failures to disclose information and suppression of information herein alleged, which have been made by Defendants, CITY, SCHULZE and PINGREE, were made with the intent to induce plaintiff to act in the manner herein alleged in reliance thereon.

76. At the time these failures to disclose and suppression of facts occurred, and at the time Plaintiff took the action herein alleged, Plaintiff was ignorant of the existence of the facts, which Defendants suppressed and failed to disclose. If Plaintiff had been aware of the existence of the facts not disclosed by defendants, plaintiff would not have acted as he did, as alleged herein. Plaintiff's reliance on defendants' representations and failure to disclose information and suppression of information herein alleged was justified.

77. As a proximate result of defendants' fraud and deceit in the facts herein alleged, Plaintiff was damaged in an amount not yet presently ascertained but which will be submitted according to proof at time of trial.

78. The aforementioned conduct was an intentional misrepresentation, deceit and/or concealment of material facts known to Defendants, with the intention on the part of Defendants of thereby depriving Plaintiff of property, legal rights or otherwise causing injury and was despicable conduct that subjected to cruel and unjust hardship and conscious disregard of Plaintiff's rights, so as to justify an award of exemplary and punitive damages.

FOURTH CAUSE OF ACTION

(FRAUD AND CONSPIRACY TO COMMIT FRAUD)

(Conspiracy Against Doug Schulze, Robert Ibarra, and Kyle Pingree)

79. Plaintiff alleges and incorporates by reference each and every allegation contained in paragraphs 1-78, inclusive, of this Complaint as if fully set forth herein.

80. Defendants SCHULZE and PINGREE knew of and were aware of their unlawful, unfair and deceptive statements, practices and untrue and misleading emails alleged above by virtue

1 of their positions as elected officials and administrators for the CITY. Further, they also acted
2 outside the scope of their employment and positions with the CITY for their own financial gain.

3 81. Defendants SCHULZE and PINGREE aided and abetted these violations in that they
4 made affirmative misrepresentations to the plaintiff, to the general public and their part to the FAA
5 ents as alleged above.

6 82. As a result of Defendants' conspiracy to commit the wrongful acts alleged herein,
7 the Plaintiff has been damaged in an amount not less than \$250,000.00.

8 **FIFTH CAUSE OF ACTION**

9 **(CONSPIRACY TO COMMIT FRAUD)**

10 **(Conspiracy Against Banning Chamber of Commerce and City of Banning)**

11 83. The Plaintiff allege and incorporates by reference each and every allegation
12 contained in paragraphs 1-82, inclusive, of this Complaint as if fully set forth herein.

13 84. Defendants CHAMBER and CITY knew of and were aware of their unlawful, unfair
14 and deceptive statements, practices and untrue and misleading emails alleged above by virtue of
15 their positions as spokespersons and administrators for the CHAMBER and CITY for their own
16 financial gain.

17 85. Defendants CHAMBER and CITY aided and abetted these violations in that they
18 made affirmative misrepresentations to the plaintiff, to the general public as alleged above.

19 86. As a result of Defendants' conspiracy to commit the wrongful acts alleged herein,
20 the Plaintiff has been damaged in an amount not less than \$250,000.00.

21 **SIXTH CAUSE OF ACTION**

22 **(UNJUST ENRICHMENT)**

23 **(Against All Defendants)**

24 87. The Plaintiff allege and incorporates by reference each and every allegation
25 contained in paragraphs 1-86, inclusive, of this Complaint as if fully set forth herein.

26 88. As alleged herein, Defendants received benefits from the Plaintiff. to which they are
27 not entitled and that they have unjustly retained at the expense of the Plaintiff.

28 89. The benefits that the Plaintiff. conferred upon Defendants were conferred as a result

1 of fraud and mistake.

2 90. As a result of Defendants' unjust enrichment, the Plaintiff are entitled to restitution
3 in the amount in which Defendants have been unjustly enriched.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff requests the following relief:

6 **ON THE FIRST CAUSE OF ACTION**

- 7 1. For compensatory damages not less than \$250,000.00;
8 2. For punitive damages;
9 3. For costs of suit; and
10 4. For such other and further relief as the Court may deem just and proper.

11 **ON THE SECOND CAUSE OF ACTION**

- 12 1. For compensatory damages not less than \$250,000.00;
13 2. For punitive damages;
14 3. For costs of suit; and
15 4. For such other and further relief as the Court may deem just and proper..

16 **ON THE THIRD CAUSE OF ACTION**

- 17 1. For compensatory damages not less than \$250,000.00;
18 2. For punitive damages;
19 3. For costs of suit; and
20 4. For such other and further relief as the Court may deem just and proper..

21 **ON THE FOURTH CAUSE OF ACTION**

- 22 1. For compensatory damages not less than \$250,000.00;
23 2. For punitive damages;
24 3. For costs of suit; and
25 4. For such other and further relief as the Court may deem just and proper.

26 **ON THE FIFTH CAUSE OF ACTION**

- 27 1. For compensatory damages not less than \$250,000.00;
28 2. For punitive damages;

1 3. For costs of suit; and

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

3 **ON THE SIXTH CAUSE OF ACTION**

4 1. For imposition of a constructive trust for the benefit of Plaintiff;

5 2. For costs of suit; and

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

7 DATED: June 21, 2022

LAW OFFICES OF THOMAS R. CHAPIN

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9 By: _____

Thomas R. Chapin

Attorneys for Plaintiff ANDREW MAROCCO a.k.a
ROUTE 66 SPEED SHOP

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15 **JURY DEMAND**

16 Plaintiff herein demand a jury trial.

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18 DATED: June 21, 2022

LAW OFFICES OF THOMAS R. CHAPIN

19
20 By: _____

Thomas R. Chapin

Attorneys for Plaintiff ANDREW MAROCCO a.k.a
ROUTE 66 SPEED SHOP