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Chris Daniel  
District Clerk

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CAUSE NO: \_\_\_\_\_

Time: \_\_\_\_\_  
Harris County, Texas

By \_\_\_\_\_ Deputy

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

Plaintiff

v.

HARRIS COUNTY, TEXAS

Billy J. and Minh T. Hammond, D/B/A  
Treasure Island Game Room and the  
premises located at 13719 Homestead  
Rd., Houston, Harris County, Texas,  
In Rem.

61 JUDICIAL DISTRICT

Defendants

**PLAINTIFF'S ORIGINAL PETITION FOR ABATEMENT OF COMMON NUISANCES, APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTIONS, AND REQUEST FOR DISCLOSURE**

**TO THE HONORABLE JUDGE OF SAID COURT:**

**SHORT STATEMENT OF THE CASE**

1. Harris County Attorney Vince Ryan brings this Original Petition on behalf of the State of Texas (State) plaintiff-petitioner (plaintiff), to permanently enjoin and abate the common nuisance<sup>1</sup> at defendant Billy J. and Minh T. Hammond's illegal gambling business – known as Treasure Island Game Room. The State also sues the premises located at 13719 Homestead Rd., Houston, Harris County, Texas, 77050, **in rem** – collectively, the defendants.

2. The premises located at 13719 Homestead Rd., Houston, Harris County, Texas is a place where persons habitually go for the purpose of gambling and gambling promotion; and for other common nuisance activities. The defendants knowingly tolerate the activity and fail to make reasonable attempts to abate these activities.

3. Billy J. and Minh T. Hammond, doing business as Treasure Island Game Room, are the owners of the premises located at 13719 Homestead Rd., Houston, Harris County, Texas. Billy J.

<sup>1</sup> Tex. Civ. Prac. & Rem. Code §§ 125.002(a), 125.0015(a)(5); Tex. Penal Code, Chap. 47.

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and Minh T. Hammond have been notified by letter of the nuisance and criminal activities that take place at 13719 Homestead Rd., Houston, Harris County, Texas. Billy J. and Minh T. Hammond's failure to remedy the common nuisances which occur on their property is prima facie evidence of Billy J. and Minh T. Hammond's intentional disregard for the laws of Harris County and the State of Texas, and its knowledge of the nuisance and criminal activities which take place at 13719 Homestead Rd., Houston, Harris County, Texas.

4. Plaintiffs further aver that Billy J. and Minh T. Hammond, doing business as the Treasure Island Game Room, and the owners of the property, located at 13719 Homestead Rd., Houston, Harris County, their management, and employees, are engaged in gambling and gambling promotion that constitute a common nuisance – as defined in Tex. Civ. Prac. & Rem. Code 125.0015(a)(5), and Tex. Penal Code, Chapter 47.

#### **DISCOVERY CONTROL PLAN**

5. The State asks the Court to issue a docket control order under Tex. R. Civ. P 190.4, tailored to the circumstances of this specific suit, setting the permanent injunction hearing as soon as practicable after a reasonable time for discovery. The State also asks the Court to require the defendant to execute a bond – to be conditioned that the defendant will not knowingly allow a common nuisance to exist at the defendant's place; and issue an order under Tex. Civ. Prac. & Rem. Code § 125.045 – with reasonable requirements to prevent the continued use or maintenance of the place as a nuisance.

#### **STATUS OF THE PARTIES**

6. The State of Texas, by and through Harris County Attorney Vince Ryan's Office, with its principal office located at 1019 Congress, 15th Floor, Houston, Texas, is duly authorized under

Tex. Civ. Prac. & Rem. Code § 125.002 to bring and prosecute this cause of action to enjoin and have abated those activities declared to be common or public nuisances and to have the premises which occupy the real estate known by the street address as 13719 Homestead Rd., Houston, Harris County, Texas (“Premises”) closed and any other such relief to abate the nuisance. Further, the State of Texas need not verify its pleadings or plead specific harm. See Tex. Civ. Prac. & Rem. Code § 125.002(a).

7. Defendant Billy J. and Minh T. Hammond are the owners of the Premises known as 13719 Homestead Rd., Houston, Harris County, Texas and also the owners of the business known as Treasure Island Game Room and are at all times material to this action. Billy J. and Minh T. Hammond may be served at 6831 Hermann Rd., Houston, Texas 77050.

8. As averred above, the Premise located at 13719 Homestead Rd., Houston, Harris County, Texas is operated as a common nuisance. Plaintiff brings this suit *in rem* pursuant to Tex. Civ. Prac. & Rem. Code § 125.002(b). This *in rem* defendant may be served by serving the owner of the Property, Billy J. and Minh T. Hammond at 6831 Hermann Rd., Houston, Texas 77050.

#### JURISDICTION AND VENUE

9. This Court has subject matter and personal jurisdiction under Tex. Civ. Prac. & Rem. Code §§ 125.002(a). The defendants are maintaining the property as a common nuisance. Venue is proper.<sup>2</sup> The real property at issue is located in Harris County, Texas.

#### STATEMENT OF FACTS

10. The defendants have knowingly allowed nuisance activity under Tex. Civ. Prac. & Rem. Code Chapter 125 -- including gambling and promotion of gambling, to habitually occur at 13719 Homestead Rd., Houston, Harris County, Texas.

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<sup>2</sup> Tex. Civ. Prac. & Rem. Code § 15.016 & § 125.002(a).

11. Attached is a warning letter, dated February 8, 2012 from Lieutenant R. Tunches, Special Investigation Division, Harris County Sheriff's Office, to A Billy J. and Minh T. Hammond at 6831 Hermann Rd., Houston, Texas 77050, confirming that illegal gambling was occurring at Treasure Island Game Room, on their property at 13719 Homestead Rd., Houston, Harris County, Texas.

#### COMMON NUISANCE

12. In keeping with Tex. Civ. Prac. & Rem. Code § 125.002(h), the State has considered the failure of the defendants to promptly notify the appropriate law enforcement agency of the occurrence of gambling and promotion of gambling at the premises or to cooperate with law enforcement investigations of criminal acts on the premises at 13719 Homestead Rd., Houston, Harris County, Texas.

13. The general reputation in the community of Treasure Island Game Room at 13719 Homestead Rd., Houston, Harris County, Texas will also show the existence of this common nuisance.<sup>3</sup>

14. The frequency of the violations and the casino-style set-up inside the game room is prima facie evidence that the defendants collectively and knowingly tolerated gambling, the promotion of gambling, and other illegal acts.

15. “[A] person who maintains a place to which persons habitually go . . . and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance.”<sup>4</sup> Treasure Island Game Room at 13719 Homestead Rd., Houston, Harris County, Texas, constitutes a common nuisance within the meaning of Tex. Civ. Prac. & Rem. Code § 125.001 et seq.

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<sup>3</sup> Tex. Civ. Prac. & Rem. Code § 125.004(c).

<sup>4</sup> Tex. Civ. Prac. & Rem. Code § 125.0015(a).

**REQUEST FOR TEMPORARY INJUNCTIVE RELIEF**

16. Treasure Island Game Room at 13719 Homestead Rd., Houston, Harris County, Texas, is knowingly maintained as an establishment where gambling, gambling promotion; and other crimes under Chapter 125 of the Texas Civil Practice & Remedies Code are committed. As such the property constitutes a common nuisance.

17. Defendants have failed or refused to abate the nuisance. Defendants are likely to continue to maintain the property as a common nuisance unless restrained by an injunctive order of the Court or other such relief.

18. Unless the Court enjoins these defendants from maintaining the property as a common nuisance, the citizens of Harris County, Texas will suffer irreparable harm. The State has no other adequate remedy at law to prevent the continued maintenance of the property as a common nuisance.

19. The consequences of the above-described unlawful activities at the property, as well as the foreseeable resulting criminal activity associated with these acts, would proximately cause a person of ordinary sensibilities to be substantially frightened, discomforted, annoyed and inconvenienced in the use of any premises surrounding the property.

**REQUEST FOR PERMANENT INJUNCTIVE RELIEF**

20. Additionally, the State seeks permanent injunctive relief.

21. If final judgment favors the State, the Court shall grant a permanent injunction ordering the defendant, including the real property known as 13719 Homestead Rd., Houston, Harris County, Texas, to abate the nuisance and/or be forever enjoined from maintaining or participating in the common and public nuisances existing on the property. The Court may

include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance.

22. Because the plaintiffs bring this action in rem, the final judgment shall be a judgment in rem, and must order that places where nuisances exist be closed for one year after the date of judgment or other such relief.<sup>5</sup>

23. A person who violates a temporary or permanent injunctive order is subject to the following sentences for civil contempt:<sup>6</sup>

- a. fine of not less than \$1,000 or more than \$10,000;
- b. confinement in jail for a term of not less than 10 or more than 30 days;
- c. both a fine and confinement.

#### **ATTORNEY'S FEES**

24. In order to litigate this case, it was necessary to secure the services of the undersigned attorneys. Plaintiff requests that Defendants be adjudged jointly and severally liable for the Plaintiff's reasonable attorneys' fees, investigative costs, witness fees, court costs, and any other reasonable expenses incurred in bringing this lawsuit.

#### **INITIAL DISCLOSURES**

25. Plaintiff requests that Defendants disclose, within 50 days of service of this request, the information or material described in Texas Rule of Civil Procedure 194.2.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Court grant judgment in favor of Plaintiffs for a permanent injunction and other such relief; and issue a

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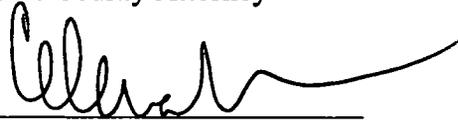
<sup>5</sup> Tex. Civ. Prac. & Rem. Code § 125.002(e).

<sup>6</sup> Tex. Civ. Prac. & Rem. Code § 125.002(d).

judgment *in rem* against the Premises located at 13719 Homestead Rd., Houston, Harris County, Texas - closing it for one year. Further, Plaintiff prays for its costs of court, reasonable attorney's fees, investigative costs, witness fees, any other reasonable expenses and for such other and further relief to which they may be justly entitled.

Respectfully submitted,

VINCE RYAN  
Harris County Attorney



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Celena Vinson  
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ATTORNEYS FOR THE STATE OF TEXAS



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this March 21, 2013

Certified Document Number: 55018010 Total Pages: 7

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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