

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONEIDA

PEOPLE OF THE STATE OF NEW YORK, By
ELIOT L. SPITZER, Attorney General of
the State of New York,

Petitioners,

vs.

SALVATORE J. PURPURA, JR., JAMES E.
LANG, RICHARD A. LINDSEY, JR., JACOB M.
MINOR, ROBERT WILLIAMS II, and WAYNE
JOHNSON,

Respondents

VERIFIED PETITION

Index No:

RJI No:

Assigned Judge:

The petition of the People of the State of New York, by
Eliot L. Spitzer, Attorney General of the State of New York,
respectfully shows:

1. The Attorney General is authorized to bring this
proceeding on behalf of petitioners, the People of the State of
New York, pursuant to Real Property Law § 231(5) and Executive
Law § 63(12) of the State of New York.

2. By this proceeding petitioners seek to enjoin the
continued sale of illicit drugs at 909 Warren Street in Utica,
New York ("909 Warren"), and the continued conscious disregard of
drug-dealing and violations of applicable housing codes at
premises within the residential real estate business of
respondent Salvatore J. Purpura, Jr.

3. In particular, petitioners allege that since 1999, 909
Warren has been used recurrently for the sale of illicit drugs;
that respondent James E. Lang is the owner of 909 Warren; that

respondents Richard A. Lindsey, Jr., Jacob M. Minor, Richard Williams II and Wayne Johnson took part in drug dealing at 909 Warren; that since assuming ownership of 909 Warren, respondent Lang has taken no action to rid the property of illicit drug activity, and that such inaction has allowed the activity to continue; that respondent Purpura is the former owner of 909 Warren and continues to conduct a residential real estate business in Utica, New York; that during his ownership of 909 Warren, respondent Purpura persistently tolerated the sale of illicit drugs at such premises; that the sale and manufacture of illicit drugs has occurred at other properties within respondent Purpura's residential real estate business; and that in the course of his residential real estate business, respondent Purpura persistently and repeatedly violated state and municipal housing codes by allowing his properties to fall into extreme disrepair.

4. As a result of the foregoing, the health, safety and comfort of persons living in the vicinity of 909 Warren and the properties within respondent Purpura's real estate business are at immediate risk.

5. By reason thereof, petitioners seek an order and judgment directing:

(a) respondent Lang, with respect to 909 Warren, and respondent Purpura, with respect to any premises in the State of New York within his real estate business:

(i) to prohibit the sale of illicit drugs or any other unlawful trade, manufacture or business to occur at such premises;

(ii) to forthwith take any and all appropriate action permitted by law to evict from such premises any tenant or occupant who has used such premises for an unlawful trade, manufacture or business;

(iii) to provide to the Attorney General and to the Court, at least every thirty days, until further order of the Court, an affidavit, in a form acceptable to the Attorney General, setting forth an accounting of all rent monies received from residents of such premises, and all disbursements made therefrom, as well as details of all steps and actions taken to comply with the directives and order of the Court;

(iv) upon receipt of information from any local, state or federal law-enforcement agency that a tenant or occupant of such premises is using such premises in an unlawful trade, business or manufacture, to forthwith take any and all appropriate action permitted by law to evict such person from such premises;

(v) to comply fully with the applicable state and municipal housing codes before allowing any residential occupancy of such premises; and

(vi) to submit to, and cooperate fully with, any effort by a municipal or county agency charged with the

enforcement of housing codes to conduct an inspection of such premises;

(b) respondents Lindsey, Minor, Williams and Johnson to remain more than two hundred feet away from 909 Warren at all times; and

(c) respondents to comply with such further and other relief as this court may deem necessary.

PARTIES AND PROPERTIES

6. The People of the State of New York, by Eliot L. Spitzer, Attorney General of the State of New York, constitute the petitioners herein. As the Attorney General of the State of New York, Eliot L. Spitzer maintains an office at 207 Genesee Street, Room 508, Utica, New York.

7. 909 Warren, 1405 Neilson Street ("1405 Neilson"), 713 Spring Street ("713 Spring") and 1570-72 Seymour Avenue ("1570-72 Seymour") are two-story houses in Utica, New York, each containing two or three residential units.

8. Respondent Purpura has conducted a residential real estate business in Utica, New York since 1998. The nature of this business is to rent out apartments in houses that respondent Purpura owns. Presently, this business consists of two properties: 713 Spring, purchased on May 18, 1998, and 1570-72 Seymour, purchased on August 5, 1998 (See Real Property Transfer Reports, annexed hereto as Exhibits A-1 and A-2). Previously,

respondent Purpura's business included two additional properties: 909 Warren, acquired on September 24, 1998 and sold to respondent Lang on January 17, 2001, and 1405 Neilson, acquired on August 5, 1998 and sold to Vira L. Jones on March 16, 2001 (See Real Property Transfer Reports, annexed hereto as Exhibits A-3 through A-6). Upon information and belief, respondent Purpura resides at 218 Railroad Street, Frankfort, New York.

9. On October 9, 1999, respondent Purpura was arrested outside the Pepsi Arena in Albany, New York, after a police officer saw him throw fifteen tablets of the drug known as "ecstasy" to the ground. During the search of respondent Purpura incident to his arrest, a quantity of marijuana and an additional quantity of ecstasy were discovered. Respondent Purpura was charged with Criminal Possession of a Controlled Substance in the Seventh Degree (Penal Law § 220.03) and Unlawful Possession of Marijuana (Penal Law § 221.05) (See Arrest Report, annexed hereto as Exhibit B-1). Later that day, respondent Purpura was convicted in Albany City Court of the Controlled Substance charge upon a plea of guilty. The marijuana charge was dismissed in consideration for his plea (See Certificate of Conviction annexed hereto as Exhibit B-2).

10. Respondent Lang is the present owner of 909 Warren, having acquired title to such premises from respondent Purpura on January 17, 2001 (See Real Property Transfer Report, annexed hereto as Exhibit A-4). Upon information and belief, respondent

Lang resides at 1650 West Street, Utica, New York. Since July 2, 2001, respondent Lang has been confined at the Oneida County Correctional Facility, serving a sentence for Menacing in the Second Degree and Resisting Arrest (Penal Law §§ 120.14, 205.30). His scheduled release date is August 23, 2001.

11. On July 31, 1998, respondent Lang was arrested at 1218 Schuyler Street in Utica, New York, about four city blocks from 909 Warren, and charged with Unlawful Possession of Marijuana (Penal Law § 221.05) and two counts of Criminal Sale of Marijuana in the Fourth Degree (Penal Law § 221.40) (See Arrest Report, annexed hereto as Exhibit C-1). On August 12, 1998, respondent Lang was convicted in Utica City Court of one of the Criminal Sale counts, upon a plea of guilty. The two remaining charges were dismissed (See Certificate of Disposition, annexed hereto as Exhibit C-2).

12. Respondent Richard A. Lindsey, Jr. was convicted of selling drugs at 909 Warren, as detailed in paragraph 23 below. Respondent Lindsey shares a previous address with respondent Lang and, upon information and belief, is the brother of Kristina Lindsey, a former tenant of respondent Purpura at 1405 Neilson (see Inspection Report listing Kristina Lindsey as tenant, annexed hereto as Exhibit P-1), and Kimberly Lindsey, who lives with respondent Lang (See Lexis-Nexis search results, establishing that Kimberly Lindsey resides at the same address listed by respondent Lang on Exhibit A-4 and shares four common

previous addresses with him, one of which is also common to respondent Lindsey and Kristina Lindsey, annexed hereto as Exhibit D). Upon information and belief, respondent Lindsey resides at 916 Shaw Street, Utica, New York.

13. Respondent Jacob M. Minor is a former or current resident of 909 Warren, and was convicted of a drug offense at such premises, as detailed in paragraph 25 below.

14. Respondent Richard Williams II is an associate of respondent Minor. Respondent Williams was convicted of a drug offense at 909 Warren, as detailed in paragraph 25 below. Upon information and belief, respondent Williams resides at 765 Blandina Street, Utica, New York.

15. Respondent Wayne Johnson was convicted of a drug offense committed immediately after exiting 909 Warren, as detailed in paragraph 26 below. Respondent Johnson is currently incarcerated for this offense at Monterey Shock Incarceration Correctional Facility in Beaver Dams, New York, and is eligible for release on January 25, 2002.

STATUTORY SCHEME

16. Real Property Law § 231 provides in part:

§ 231. Lease, when void; liability of landlord where premises are occupied for unlawful purpose

1. Whenever the lessee or occupant other than the owner of any building or premises, shall use or occupy the same, or any part thereof, for any illegal trade, manufacture or other

business, the lease or agreement for the letting or occupancy of such building or premises, or any part thereof, shall thereupon become void, and the landlord of such lessee or occupant may enter upon the premises so let or occupied.

2. The owner of real property, knowingly leasing or giving possession of the same to be used or occupied, wholly or partly, for any unlawful trade, manufacture or business, or knowingly permitting the same to be so used, is liable severally, and also jointly with one or more of the tenants or occupants thereof, for any damage resulting from such unlawful use, occupancy, trade, manufacture or business.

...

5. The attorney general may commence an action or proceeding in the supreme court to enjoin the continued unlawful trade, manufacture or business in such premises.

17. Executive Law § 63(12) provides in part:

Whenever any person shall engage in repeated ... illegal acts or otherwise demonstrate persistent ... illegality in the carrying on, conducting or transaction of business, the attorney general may apply, in the name of the people of the state of New York, to the supreme court of the state of New York, on notice of five days, for an order enjoining the continuance of ... any ... illegal acts[.]

STATEMENT OF FACTS

Criminal Activity

18. Since 1999, arrests for drug offenses at 909 Warren have occurred on at least eight occasions, resulting in at least nine criminal convictions. These incidents are detailed in paragraphs 19 through 26 below.

19. On August 14, 1999, a Utica police officer observed a

car pull up in front of 909 Warren, a location known to the officer for its high level of drug activity. The officer observed James C. Thomas exit the car, enter 909 Warren, and return to the car in a short period of time. The officer stopped Mr. Thomas at a nearby intersection on suspicion of possessing narcotics. After a plastic bag containing marijuana was recovered from his possession, Mr. Thomas was arrested on a charge of Unlawful Possession of Marijuana (Penal Law § 221.05) (See Memorandum, Property Receipt and Appearance Ticket, annexed hereto as Exhibit E-1). On August 25, 1999, Mr. Thomas was convicted of the charge in Utica City Court upon a plea of guilty (See Certificate of Disposition, annexed hereto as Exhibit E-2).

20. On August 16, 1999, a Utica police officer observed "A.B.," a 17-year-old boy, emerge from 909 Warren and enter the back seat of a waiting car. At a nearby intersection, the officer stopped the car and questioned A.B. A.B. admitted that he purchased marijuana at 909 Warren, and gave such marijuana to the officer. He was charged with Unlawful Possession of Marijuana (Penal Law § 221.05) (See Memorandum and Appearance Ticket, annexed hereto as Exhibit F-1). On August 24, 1999, A.B. was convicted of the charge in Utica City Court upon a plea of guilty (See Certificate of Disposition, annexed hereto as Exhibit F-2).

21. On August 18, 1999, a Utica police officer observed James N. Skerritt emerge from 909 Warren and enter a car on a

nearby street. Another officer stopped the car, and a plastic bag containing marijuana was discovered inside. Mr. Skerritt was charged with Unlawful Possession of Marijuana (Penal Law § 221.05) (See Memorandum, Arrest Report, Property Receipt and Appearance Ticket, annexed hereto as Exhibit G-1). On September 28, 1999, Mr. Skerritt was convicted of the charge in Utica City Court upon a plea of guilty (See Certificate of Disposition, annexed hereto as Exhibit G-2).

22. On September 10, 1999, a Utica police officer observed Misty L. Townsend enter 909 Warren and emerge after approximately two minutes. The officer approached Ms. Townsend and asked her if she was in possession of marijuana. Ms. Townsend handed the officer a plastic bag containing marijuana, and was charged with Unlawful Possession of Marijuana (Penal Law § 221.05) (See Memorandum and Appearance Ticket, annexed hereto as Exhibit H-1). On September 16, 1999, Ms. Townsend failed to appear for her arraignment in Utica City Court, and a warrant was issued (See Certificate of Disposition, annexed hereto as Exhibit H-2).

23. On September 20, 1999, an undercover Utica police officer entered 909 Warren and purchased marijuana from respondent Lindsey on the second floor of the house. Respondent Lindsey was immediately arrested and charged with Criminal Sale of Marijuana in the Fifth Degree (Penal Law § 221.35) (See Arrest Report, annexed hereto as Exhibit I-1). On October 5, 1999, respondent Lindsey was convicted of the charge in Utica

City Court upon a plea of guilty, and was sentenced to 45 days participation in an Oneida County Offender Work Program. On February 14, 2000, as respondent Lindsey had not reported to the program, the Court issued a bench warrant for his arrest (See Certificate of Disposition, annexed hereto as Exhibit I-2). On May 11, 2001, respondent Lindsey was arrested on the warrant (See Arrest Report, annexed hereto as Exhibit I-3). Upon information and belief, he is currently taking part in the Offender Work Program.

24. On the morning of January 4, 2000, a Utica police officer observed Horace J. Williams enter 909 Warren and emerge a short time later. The officer stopped Mr. Williams and questioned him about his business at 909 Warren. During the questioning, Mr. Williams surrendered a plastic bag containing marijuana, and was arrested on a charge of Unlawful Possession of Marijuana (Penal Law § 221.05). In a search of Mr. Williams incident to the arrest, four additional bags of marijuana were discovered (See Memorandum, Arrest Report, and Appearance Ticket, annexed as Exhibit J-1). On January 12, 2000, Mr. Williams was convicted of the charge in Utica City Court upon a plea of guilty (See Certificate of Disposition, annexed hereto as Exhibit J-2).

25. On the evening of January 4, 2000, Utica police officers established a surveillance detail of 909 Warren. During the surveillance, vehicular and pedestrian traffic indicated that marijuana was being sold inside. At 9:00 p.m., an undercover

officer approached 909 Warren and knocked on the front door. He was permitted inside by respondent Williams and led into the first floor apartment, where he met respondent Minor. The officer indicated to respondent Minor that he was interested in purchasing marijuana. Respondent Minor indicated that marijuana was not available. However, the officer observed in plain view three plastic bags containing marijuana, as well as a razor blade containing a white residue consistent with cocaine. Respondents Williams and Minor were arrested on charges of Unlawful Possession of Marijuana (Penal Law § 221.05). During the search of respondent Williams incident to his arrest, an additional bag of marijuana was discovered (See Memorandum and Appearance Tickets, annexed hereto as Exhibit K-1). On January 11, 2000, both respondents were convicted of the charges in Utica City Court upon pleas of guilty (See Certificates of Disposition, annexed as Exhibit K-2), and were each sentenced to pay fines of fifty-five dollars, plus surcharges of forty-five dollars.

26. On January 26, 2001, a Utica police officer surveilled 909 Warren, based upon suspicion that the house was being used for narcotics trafficking. Approximately two minutes after beginning the surveillance, the officer saw respondent Johnson enter 909 Warren after looking around nervously, and emerge two minutes later. The officer stopped and detained respondent Johnson. In respondent Johnson's jacket pocket, the officer discovered a large plastic bag containing 67 small packages of

crack cocaine. In a search incident to his arrest, respondent Johnson also was found to be in possession of a plastic bag containing marijuana and \$347.00 in cash (See Memorandum, annexed hereto as Exhibit L-1). Respondent Johnson was later charged by the Oneida County District Attorney with Criminal Possession of a Controlled Substance in the Fifth Degree (Penal Law § 220.06) (See Superior Court information, annexed as Exhibit L-2). On April 20, 2001, respondent Johnson was convicted of the charge in Oneida County Court upon a plea of guilty, and was sentenced to a prison term of one to three years (See Record of Conviction, annexed as Exhibit L-3).

27. The incidents at 909 Warren detailed in paragraphs 19 through 25 above occurred during the ownership of respondent Purpura. The incident involving 909 Warren detailed in paragraph 26 above occurred during the ownership of respondent Lang. Upon information and belief, neither respondent Purpura nor respondent Lang has at any time sought to evict any tenant or occupant from 909 Warren for participating in or tolerating illicit drug trade at such property.

28. In addition to the activity at 909 Warren detailed above, drug crimes have occurred at two other properties within respondent Purpura's residential real estate business. These incidents are detailed in paragraphs 29 and 30 below.

29. On July 7, 1999, an undercover Utica police officer purchased crack cocaine from Reginald Cromwell at 1405 Neilson

(See Evidence Submission Form and Memorandum, annexed as Exhibit M-1). This incident occurred during the period that respondent Purpura owned 1405 Neilson. On September 16, 1999, Mr. Cromwell was indicted on three counts of Criminal Sale of a Controlled Substance in the Third Degree (Penal Law § 220.39) and three counts of Criminal Possession of a Controlled Substance in the Third Degree (Penal Law § 220.16), with one count of each charge stemming from the July 7, 1999 incident (See Indictment, annexed hereto as Exhibit M-2). On January 1, 2000, Mr. Cromwell was convicted in Oneida County Court upon a plea of guilty to one count of Criminal Sale of a Controlled Substance in the Third Degree, and was sentenced, as a second felony offender, to seven to fourteen years imprisonment (See Record of Conviction, annexed hereto as Exhibit M-3). In consideration for Mr. Cromwell's plea, the remaining charges in the indictment were dismissed.

30. On October 23, 2000, Utica police officers went to 713 Spring, a property owned by respondent Purpura, in response to a report of a burglary in progress. The officers entered 713 Spring through an open back door, and climbed the stairs to the second-floor rear apartment. While climbing the stairs, one of the officers observed, through a gap between the apartment door and floor, the bottoms of a person's feet inside the apartment. Finding the door locked, the officers requested entry to the apartment, but the party within did not respond. The officers

attempted to reach respondent Purpura to gain permission to enter the apartment, but were unsuccessful. A Utica police sergeant arrived at the scene, and announced himself at the apartment door. In response, Philip M. Jackson opened the door. While Mr. Jackson and the sergeant conversed, an officer observed in plain view on the apartment floor a plastic bag containing nine small packages of crack cocaine. The apartment was secured and special investigators from the Utica Police Department were called to the scene (See Memorandum, annexed hereto as Exhibit N-1). In addition to the bag of crack cocaine, the investigators discovered a clear glass coffee pot, a baby-food jar, and a metal spoon, all containing cocaine residue, and keys to the apartment. Mr. Jackson was charged with Criminal Possession of a Controlled Substance in the Third, Fifth and Seventh Degrees (Penal Law §§ 220.03, 220.06, 220.16) (See Memorandum and Arrest Reports, annexed hereto as Exhibit N-2). On December 5, 2000, Mr. Jackson was indicted by an Oneida County Grand Jury (See Indictment, annexed hereto as Exhibit N-3). On January 22, 2001, he was convicted upon a plea of guilty of the lesser charge of Attempted Criminal Possession of a Controlled Substance in the Third Degree in Oneida County Court, and was sentenced, as a second felony offender, to a prison term of three to six years (See Record of Conviction, annexed hereto as Exhibit N-4).

Code Violations

31. During code inspections between 1999 and 2001 of

properties within respondent Purpura's residential real estate business, respondent Purpura was found to have committed more than 75 housing code violations, resulting in at least four criminal convictions.¹ Most of these inspections were initiated at the request of the New York State Department of Social Services, upon the arrival of recipients of public assistance as new tenants. The incidents cited in this paragraph are detailed in paragraphs 32 through 42 below.

1405 Neilson

32. On June 7, 1999, a resident of 1403 Neilson Street, a property adjoining 1405 Neilson, complained to the City of Utica that trash had been piled behind 1405 Neilson for over three weeks, and that the resulting odor prevented him from sitting outside (See Request Form, annexed hereto as Exhibit O-1). On July 15, 1999, a Utica Codes Enforcement Inspector conducted an inspection of 1405 Neilson, and found "[g]arbage, papers and debris all over the property in front and in rear," in violation of § 1245.1(h) of the New York State Uniform Fire Prevention and Building Code ("FPBC"). On July 21, 1999, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violation prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit O-2). Upon reinspection on

¹ That respondent Purpura corrected some of the violations in time to avoid formal charges did not annul the illegality that had already occurred.

December 3, 1999, respondent Purpura was found to have corrected the violation (See Reinspection Report, annexed hereto as Exhibit O-3).

33. On March 8, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 1405 Neilson, and found the property vacant, but not boarded and secured as required by FPBC § 1154.1. On March 14, 2000, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violation prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit P-1). Upon reinspection on March 20, 2000, the inspector found that the premises were no longer vacant (See Reinspection Report, annexed hereto as Exhibit P-2).

34. On June 20, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 1405 Neilson, and found peeling and chipping paint allowing deterioration to the exterior of the house, in violation of FPBC § 1242.5(e), and a ceiling light fixture in the second-floor hall missing a globe, in violation of FPBC § 1243.8(a). On June 21, 2000, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit Q-1). On October 3, 2000, as the violations had not yet been cured, the inspector filed charges against respondent Purpura in Utica City Court (See

Information, annexed hereto as Exhibit Q-2). Subsequent reinspections on November 1, 2000 and February 15, 2001 found that the violations still had not been corrected (See Reinspection Reports, annexed hereto as Exhibit Q-3). On February 15, 2001, respondent Purpura pled guilty to the violation of FPBC § 1242.5(e), and was fined \$250.00 by the Court. In consideration for respondent's guilty plea, the remaining charge was dismissed (See Docket Report, annexed hereto as Exhibit Q-4).

713 Spring

35. On October 13, 1998, a Utica Codes Enforcement Inspector conducted an inspection of 713 Spring, and found the property in a severe state of disrepair. Specifically, the inspector found: a shower knob was inoperable, in violation of FPBC § 1243.7(a); a refrigerator had a constant buzzing sound, in violation of FPBC § 1243.5(d); an electrical cover box was exposed and a light fixture was missing a globe, in violation of FPBC § 1243.8(a); a bathroom vent was not functioning properly, in violation of FPBC § 1242.2(a)(2); a closet door had no knob, a hall closet was partially unfinished, a kitchen cupboard panel was missing, and a back door had an uncovered hole, in violation of FPBC § 1245.1(e); a tree was down in the yard, in violation of FPBC §§ 1242.10(b) and 1242.8(a); the yard contained four or five bags of raw garbage, a pile of shingles, cardboard, wood, old windows, pails and other debris, in violation of FPBC §

1245.1(h); a side window had many cracks, in violation of FPBC § 1242.5(b); and the back porch stairs were missing handrails, in violation of FPBC § 1242.3(d). On October 23, 1998, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit R-1). Upon reinspection on November 10, 1998, respondent Purpura was found to have substantially corrected the violations (See Reinspection Report, annexed hereto as Exhibit R-2).

36. On January 6, 1999, a Utica Codes Enforcement Inspector conducted an inspection of 713 Spring, and found the property in a severe state of disrepair. Specifically, the inspector found: the first-floor, front-hall light fixture was inoperable, a ceiling light fixture in the first-floor apartment was missing a globe, and receptacle plates were missing in a first-floor bedroom, in violation of FPBC § 1243.8(a); the front walk to the back pathway was heavily iced, and the back porch contained accumulated snow, in violation of FPBC § 1245.1(c); the sewer line was plugged in the cellar, with raw sewage, diapers, and a great deal of water collecting on the cellar floor and emitting a strong odor to the first and second floors, in violation of FPBC § 1243.7(a); no working smoke detectors in the second-floor front apartment, in violation of FPBC § 1193.3; glass, cardboard and wood scattered in the first-floor front

hall, and two missing kitchen cabinet drawers in the first-floor front apartment, in violation of FPBC § 1245.1(e); no stove in the first-floor front apartment, in violation of FPBC § 1243.5(a); and many holes and stained or bulging tiles in the walls and ceilings of the hallway and first-floor front apartment, in violation of FPBC § 1242.7(c). On January 6, 1999, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Notice and Order, annexed hereto as Exhibit S-1). Upon reinspection on January 20, 1999, respondent Purpura was found to have not corrected any of the violations (See Reinspection Report, annexed hereto as Exhibit S-2). On March 16, 1999, the inspector filed charges against respondent Purpura in Utica City Court (See Information, annexed hereto as Exhibit S-3). On May 27, 1999, respondent Purpura pled guilty to the charges. On June 3, 1999, the Court sentenced him to a fine of one thousand dollars (See Docket Report, annexed hereto as Exhibit S-4).

37. On March 20, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 713 Spring, and found black garbage bags and a mixture of garbage and cardboard piled on the west side of the property, in violation of FPBC § 1245.1(c). On March 21, 2000, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violation prior to the scheduled reinspection date

(See Inspection Report and Notice and Order, annexed hereto as Exhibit T-1). Upon reinspection on March 24, 2000, respondent Purpura was found to have corrected the violation (See Reinspection Report, annexed hereto as Exhibit T-2).

38. On October 23, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 713 Spring, and found the property in a severe state of disrepair. Specifically, the inspector found: the front doors to the first-floor and second floor rear apartments were missing knobs, a metal bracket and two-by-four were being used to lock the second-floor rear apartment, and two window panes and a storm window were missing, in violation of FPBC § 1242.5(b); the porch railing was loose, the railing for the steps was broken, the porch deck had a hole in it, the porch deck and steps were rotted and unsafe, the porch lacked a protective finish, and the nose of the deck boards were broken, worn, rotted and unsafe, in violation of FPBC § 1242.5(c); the porch light fixture was missing a globe and the wall light fixture in the second-floor rear apartment was loose from the wall and fed with a Romex cable, in violation of FPBC § 1243.8(a); the front and back yards had weeds over eight inches in height with an accumulation of dead weeds and brush, in violation of Utica City Code § 2-22-56; and large plywood pieces, pallets and boards were scattered throughout the back yard, in violation of FPBC § 1245.1(c). On October 25, 2000, the inspector mailed a Notice and Order to respondent Purpura,

warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date. The Notice and Order also demanded production, under FPBC § 1282.2(b), of the records of smoke-detecting devices at 713 Spring that respondent Purpura was required to keep under FPBC § 1282.1 (See Inspection Report and Notice and Order, annexed hereto as Exhibit U-1). On March 21, 2001, as the violations had not yet been cured and the smoke-detection records had not yet been submitted, the inspector filed charges against respondent Purpura in Utica City Court (See Information, annexed hereto as Exhibit U-2). Subsequent reinspections on April 11, 2001 and May 2, 2001 found that most of the violations still had not been corrected (See Reinspection Reports, annexed hereto as Exhibit U-3). On May 3, 2001, respondent Purpura pled guilty to the charges under FPBC §§ 1243.8(a), 1282.1 and 1282.2. He was sentenced by the Court to a fine of one thousand dollars (See Docket Report, annexed hereto as Exhibit U-4).

909 Warren

39. On November 17, 1998, a Utica Codes Inspector conducted an inspection of 909 Warren and found "garbage, refuse and junk" piled along the back yard fence "in an unsafe, unsanitary manner," in violation of FPBC § 1245.1(h), and eight window panes that were cracked or broken with pieces missing, in violation of FPBC § 1242.5(b). On November 23, 1998, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal

consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit V-1). On October 12, 1999, respondent Purpura entered into a contract with respondent Lang for the sale of 909 Warren, without first correcting the violations discovered on November 17, 1998, or notifying the Utica Codes Enforcement Commissioner of the imminent transfer (See Real Property Transfer Report, annexed hereto as Exhibit C). On October 20 and October 21, 1999, the inspector filed charges against respondent Purpura in Utica City Court. In addition to the original violations, the inspector alleged that respondent Purpura had violated § 2-12-55 of the Utica City Code, which provides that a property owner who has received notice of a code violation shall not transfer ownership of the property without either correcting the violation, or notifying both the purchaser of the outstanding violation and the Utica Codes Enforcement Commissioner of the imminent sale (See Information, annexed hereto as Exhibit V-2). On January 13, 2000, respondent Purpura pled guilty to the violation of FPBC § 1242.5(b), and was fined one hundred dollars by the Court. In consideration for respondent's guilty plea, the remaining charges were dismissed (See Docket Report, annexed hereto as Exhibit V-3).

40. On October 3, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 909 Warren, and found three abandoned cars in the property's parking lot, in violation of § 1-17-28 of

the Utica City Code, and garbage bags, cardboard, and a fender from one of the cars strewn in the yard, in violation of FPBC § 1245.1(c). On October 13, 2000, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit W-1). On December 14, 2000, as the violations had not yet been cured, the inspector filed charges against respondent Purpura in Utica City Court (See Information, annexed hereto as Exhibit W-2). Subsequent reinspections on January 10, 2001 and February 15, 2001 found that the violations still had not been corrected (See Reinspection Reports, annexed hereto as Exhibit W-3). On February 15, 2001, the Court dismissed the charges upon respondent Purpura's production of evidence of the January 17, 2001 sale of 909 Warren to respondent Lang (See Docket Report, annexed hereto as Exhibit W-4).

1570-72 Seymour

41. On August 7, 1998, a Utica Codes Enforcement Inspector conducted an inspection of 1570-72 Seymour, and found the property in a severe state of disrepair. Specifically, the inspector found: roach and mouse droppings in kitchen, bath and hall areas, in violation of FPBC § 1242.9; five cracked windows and one window insecurely set in its frame, in violation of FPBC § 1242.5(b); missing, worn and torn linoleum flooring in the

kitchen, visible plaster on a kitchen wall, cracks and mildew in the bathroom ceiling, and bathroom walls with mildew stains and without a protective finish, in violation of FPBC § 1242.7(c); a dripping bathtub faucet, in violation of FPBC § 1243.7(a); no protective finish on the side porch, in violation of FPBC § 1242.5(c); and loose railings on the staircase, in violation of FPBC § 1242.3(d). On August 21, 1998, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit X-1). On September 25, 1998 and November 25, 1998, the inspector conducted reinspections and found that the violations had not been corrected (See Reinspection Report, annexed hereto as Exhibit X-2). On January 4, 1999, the inspector filed charges against respondent Purpura in Utica City Court (See Information, annexed hereto as Exhibit X-3). The Court referred the case to a mediator, who directed respondent Purpura to correct all violations by May 31, 1999 (See Docket Report, annexed hereto as Exhibit X-4).

42. On September 18, 2000, a Utica Codes Enforcement Inspector conducted an inspection of 1570-72 Seymour, and found the property in a severe state of disrepair. Specifically, the inspector found: no smoke detectors on the second floor, in violation of FPBC § 1193.2; a light fixture hanging by its wires from the ceiling with no globe, a bathroom light without a cover,

and a loose duplex electrical outlet, in violation of FPBC § 1243.8(a); a refrigerator that leaked water onto the floor, was missing a bottom panel, had a non-working freezer, and, despite the fact that the tenant had just moved in, was "filthy ... and unsanitary," in violation of FPBC § 1243.5(d); a kitchen stove with only one properly-functioning burner, and an oven that was "filthy, caked with burned grease - unclean, unsanitary, dangerous, possible fire hazard," in violation of FPBC § 1243.5(d); a bathroom floor with torn linoleum and an uncaulked tub, in violation of FPBC § 1242.7(d); dirty walls and floors lacking a protective finish, a bedroom floor splattered with paint, kitchen linoleum torn and worn with holes covered in duct tape, a dining room wood floor "caked with a film of dirt," and a filthy dining room rug, in violation of FPBC § 1242.7(c); a broken knob on the door to the second-floor porch, and a loose post on the front stairway, in violation of FPBC § 1245.1(e); the second-floor landing cluttered with three large boxes, a headboard, a large clothes stand, an old vacuum cleaner and a fan, none of which belonged to the second-floor tenant, in violation of FPBC § 1245.1(c); a loose panel closure on the second-floor porch, bedroom windows that did not open freely, a broken window, a window pane completely loose from its frame, and a missing attic window, in violation of FPBC § 1242.5(b); five torn window screens and three loose window screens, in violation of Utica City Code § 2-12-167; and an inoperable thermostat and

missing wall heat registers, in violation of FPBC § 1243.1(a). On September 29, 2000, the inspector mailed a Notice and Order to respondent Purpura, warning him of the legal consequences of failure to remedy the violations prior to the scheduled reinspection date (See Inspection Report and Notice and Order, annexed hereto as Exhibit Y-1). On January 12, 2001 and February 7, 2001, the inspector conducted reinspections and found that the violations had been corrected (See Reinspection Reports, annexed hereto as Exhibit Y-2).

CONCLUSIONS OF LAW

43. Considered cumulatively, the facts stated in paragraphs 19 through 26 above demonstrate that 909 Warren has repeatedly been used by lessees or occupants for drug dealing, an illegal trade. The Attorney General is authorized under Real Property Law § 231(5) to seek injunctive relief against respondents Lang, Lindsey, Minor, Williams and Johnson to ensure the termination of such unlawful use of 909 Warren.

44. Considered cumulatively, the facts stated in paragraphs 19 through 25 above demonstrate that drug dealing at 909 Warren during the time such property was within respondent Purpura's residential real estate business was open and notorious. If respondent Purpura did not know of such illicit activity, he would have known had he exercised due diligence as the property owner. Thus, respondent Purpura had actual or constructive

knowledge of the illegal trade, and had a duty under Real Property Law § 231 to evict the tenants or occupants responsible.

45. Considered cumulatively, the facts stated in paragraphs 19 through 25, 27, and 32 through 42 above demonstrate that respondent Purpura has committed repeated and persistent illegalities in the course of his residential real estate business. To wit, respondent Purpura has persistently breached his duty under Real Property Law § 231 to remove drug-dealing tenants or occupants, and repeatedly and persistently violated state and municipal housing codes. The Attorney General is authorized under Executive Law § 63(12) to seek injunctive relief to ensure that respondent Purpura upholds his duty under Real Property Law § 231 and obeys applicable housing codes in his ongoing residential real estate business. While 909 Warren is no longer part of such business, the continuing need for injunctive relief against such business is underscored by the drug crimes that have occurred at two other properties within such business, detailed in paragraphs 29 and 30 above, respondent Purpura's own drug-crime history, detailed in paragraph 9 above, and the history of code violations at the two properties currently within such business, detailed in paragraphs 35 through 38, 41 and 42 above.

46. No prior request for this relief has been previously sought by the petitioners.

WHEREFORE, it is respectfully requested that the relief sought in the annexed Notice of Petition be granted, and for such other and further relief as this court deems proper and necessary.

Dated: August 9, 2001
Utica, New York

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