

1 Allen Lichtenstein
Nevada Bar No: 3992
2 3315 Russell Rd., No. 222
Las Vegas NV, 89120
3 (702) 433-2666 – phone
(702) 433-9591 – fax
4 alichtensteinlaw@aol.com
attorney for plaintiffs
5

6
7 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA
8

9 WESTERN BEST, LTD, a Nevada limited)
partnership, dba THE CHICKEN RANCH)
10 WESTERN BEST, INC.; KENNETH R.)
GREEN, an individual; DEBBIE)
11 RIVENBURGH, an individual,)

12 Plaintiffs,)

13 v.)

COMPLAINT FOR DECLARATORY,
RELIEF, INJUNCTIVE RELIEF AND
DAMAGES

14 NYE COUNTY, NEVADA, a political)
subdivision of the State of Nevada;)
15 JONI EASTLY, in the capacity as a)
member of the Nye County Commission)
16 and the Nye County Brothel Licensing)
Board; ANDREW BORASKY, in the)
17 capacity as a member of the Nye County)
Commission and the Nye County Brothel)
18 Licensing Board; LORINDA WICKMAN,)
in the capacity as a member of the Nye)
19 County Commission and the Nye County)
Brothel Licensing Board; GARY)
20 HOLLIS, in the capacity as a member of the)
Nye County Commission and the Nye)
21 County Brothel Licensing Board; FELY)
22 QUITEVIS, in the capacity as a member of)
the Nye County Commission and the Nye)
23 County Brothel Licensing Board;)
ANTHONY L. DEMEO DEMEO, in the)
24 capacity as a member of the Nye County)
Brothel Licensing Board;)

25 Defendants.)
26

27 Come now the plaintiffs, by and through the undersigned attorney, and filed this Complaint
28 for injunctive, declaratory, and monetary relief, pursuant to 42. U.S.C. § 2000(e) et seq., 42 U.S.C.
§ 1983, 28 U.S.C. § 2201 and 28 U.S.C. § 1331, against defendants: Nye County, Nevada, Joni

1 Eastly, Andrew Borasky, Lorinda Wickman, Gary Hollis, Fely Quitevis and Anthony L. Demeo
2 (“defendants”). The basis of plaintiffs’ causes of action is that defendants, through their policies,
3 procedures, and actions, including but not limited to provisions of the Nye County brothel code, as
4 set forth in Chapter 9.20 of the Nye County Code have violated and continued to violate plaintiff’s
5 rights pursuant to the United States Constitution.

6 **I. Jurisdiction**

7 1. This Court has original subject matter jurisdiction over the federal Constitutional
8 violations alleged in this Complaint pursuant to the provisions of 42 U.S.C. § 1983 and 28
9 U.S.C. §§ 1331 and 1343. Pursuant to 28 U.S.C. §1367(a), this Court has supplemental
10 jurisdiction over plaintiff’s state law claims. This Court has jurisdiction to issue injunctive and
11 declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

12 2. Venue is proper in the District of Nevada pursuant to 28 U.S.C. §1391. All actions
13 pertinent to this complaint occurred in Nye County, Nevada.

14 **II. Parties**

15 3. Plaintiff Western Best Ltd., is a Nevada limited partnership, licensed by Nye County
16 to operate a legal brothel dba The Chicken Ranch. The general partner of plaintiff Western Best Ltd.
17 is plaintiff, Western Best, Inc., a Nevada Corporation. Kenneth R. Green is the president, secretary
18 and treasurer; L. Debbie Rivenburgh is the sole director; and Kenneth R. Green is the sole
19 shareholder. The limited partners are Diversified Partners, Ltd., a Nevada partnership, and CR
20 Partners, Ltd., a Nevada partnership.

21 4. Plaintiffs Green and Rivenburgh are in charge of the day-to-day operation of the
22 Chicken Ranch business.

23 5. Defendant Nye County, is a political subdivision of the State of Nevada.

24 6. Defendants Eastly, Borasky, Wickman, Hollis and Quitevis are members of the Nye
25 County Board of County Commissioners. Along with defendant, Nye County Sheriff, Demeo, they
26 comprise the Nye County Licensing and Liquor Board pursuant to section 9.20.40 of the Nye
27 County Code. The Board administers and is responsible for licensing of all brothels in Nye County,
28 Nevada. Individual defendants are sued in their official capacities.

1 **III. Facts**

2 7. NRS 244.345 (8) allows, at County option, counties with less than 400,000
3 population to devise a system of legal, licensed brothels.

4 8. In Nye County, the regulation of such system is set forth in Nye County Code,
5 Chapter 9.20.

6 9. Section 9.2 0.030 states that: “[a]ny person who engages in prostitution or operates
7 a house of prostitution without first having obtained a license and having paid the license fee as
8 provided in this chapter is guilty of a misdemeanor.”

9 10. Section 9.20.050 (B) gives the Board the authority to: “grant or deny applications for
10 licenses and imposed conditions, limitations and restrictions upon the licensee.”

11 11. Section 9.2 0.110(C)(10) states that a license, “shall not be transferred without prior
12 approval of the Board.”

13 12. Section 9.2 0.120 lists fourteen possible grounds for a license denial.

14 13. Section 9.20.0 90 (A) requires that each application for a brothel license in Nye
15 County include evidence that an applicant, “is a bona fide resident of the State (of Nevada) and has
16 been so for six (6) months.”

17 14. Currently, plaintiff Kenneth R. Green, is the only individual associated with the
18 license for the Chicken Ranch. He signs as Western Best, Ltd., Western Best, Inc, General Partner,
19 Kenneth R. Green President.

20 15. Over the last several years, plaintiff Green, on behalf of himself and plaintiff Western
21 Best, has attempted to sell the Chicken Ranch.

22 16. On June 19, 2007, defendants effectively voided a contract to sell the Chicken Ranch
23 to Bruce Kahn. At the June 19, 2007 Licensing Board meeting, defendants turned down Mr. Kahn’s
24 application, citing the fact that he was not and had not been a Nevada resident for six months as
25 required pursuant to section 9.2 0.0 90(A) of the Code.

26 17. Representatives of the Chicken Ranch have also been told by Nye County officials
27 that it would be a waste of time and money to attempt to add plaintiff Debbie Rivenburgh to the
28 existing Chicken Ranch license, as the Board would not license her. The reason given was that

1 although she was responsible for the day-to-day operation of the establishment, because she did not
2 have enough personal funds to operate the Chicken Ranch on her own, she could not be added to the
3 license, even with the financial backing and guarantees that already exist under the current structure,
4 creating a situation that if anything were to happen to plaintiff Kenneth R. Green, the license to the
5 Chicken Ranch would be in jeopardy.

6 18. It is plaintiffs' belief, based on statements made by Nye County officials, that
7 defendants are operating under the incorrect assumption that because legal prostitution involves a
8 privileged license, that governmental officials have virtual unfettered discretion in all licensing
9 matters concerning legal brothels, and are using such assumed unfettered discretion to attempt to rid
10 the County of its legal brothels by attrition.

11 19. Because of this, plaintiffs Western Best, LTD, Western Best, Inc. and Green have
12 been and are being prevented from being able to either sell the business, or add others, such as
13 plaintiff Rivenburgh to the license.

14 20. Defendants' policies, practices and invocation of Nye County Code section 9.2 0.0
15 90(A) has, under color of law, deprived plaintiffs of their rights set forth in the United States
16 Constitution.

17 **First Claim for Relief**
18 **Violation of plaintiffs' due process rights**

19 21. Plaintiffs hereby incorporate by reference all previous allegations set forth above as
20 if fully set forth herein.

21 22. Defendants, through their policies practices and actions, including but not limited to
22 Nye County Code section 9.2 0.0 90(A), have violated plaintiffs' rights under the due process clause
23 of the 14th Amendment to the United States Constitution.

24 **Second Claim for Relief**
25 **Violation of plaintiffs' rights to equal protection**

26
27 23. Plaintiffs hereby incorporate by reference all previous allegations set forth above as
28 if fully set forth herein.

1 24. Defendants, through their policies practices and actions, including but not limited to
2 Nye County Code section 9.2 0.0 90(A), have violated plaintiffs' rights under the equal protection
3 clause of the 14th Amendment to the United States Constitution.

4
5 **Third Claim for Relief**
Violation of the privileges and immunities clause

6 25. Plaintiffs hereby incorporate by reference all previous allegations set forth above as
7 if fully set forth herein.

8 26 Defendants, through their policies practices and actions, including but not limited to
9 Nye County Code section 9.2 0.0 90(A), have violated plaintiffs' rights under the privileges and
10 immunities clause, Art. IV, § 2, cl. 1, of the United States Constitution, by prohibiting plaintiffs from
11 selling the Chicken Ranch to Mr. Kahn or anyone else who has not been a Nevada resident for at
12 least six months.

13 **Fourth Claim for Relief**
Violation of plaintiffs' rights under the Commerce Clause

14
15 27. Plaintiffs hereby incorporate by reference all previous allegations set forth above as
16 if fully set forth herein.

17 28 Defendants, through their policies practices and actions, including but not limited to
18 Nye County Code section 9.20.090(A), have violated plaintiffs' rights under the commerce clause,
19 Art. I, § 8, of United States Constitution.

20 **Fifth Claim for Relief**
injunctive relief

21 29. Plaintiffs hereby incorporate by reference all previous allegations set forth above as
22 if fully set forth herein.

23 30. Without injunctive relief, plaintiffs' existing license to the Chicken Ranch may
24 become vulnerable. Plaintiffs therefore request injunctive relief to allow plaintiffs to sell the Chicken
25 Ranch without regard to the domicile of purchaser, and also to allow plaintiff Rivenburgh to be
26 placed on the existing license.

27 **Sixth Claim for Relief**
monetary damages

1
2 31. Plaintiffs hereby incorporate by reference all previous allegations set forth
3 above as if fully set forth herein.

4 32. Plaintiff's request monetary damages from defendants. Due to defendants' policies
5 practices and actions, the sale to Mr. Kahn in 2007 was prohibited from going through financially
6 damaging plaintiffs in an amount to be determined at trial, due to the diminished value of the
7 property since that time.

8 WHEREFORE, plaintiffs respectfully request the following:

9 A. A declaration that defendants' practices policies and actions, including but not limited
10 to Nye County Code section 9.20.090(A) violated plaintiffs' rights under: 1) the due process clause
11 of the 14th Amendment to the United States Constitution; 2) the equal protection clause of the 14th
12 Amendment to the United States Constitution; 2) the Commerce Clause, Art. I, § 8, of the United
13 States Constitution; and 4) the privileges and immunities clause of Art. IV, § 2, cl. 1 of the United
14 States Constitution.

15 B. Injunctive relief permitting plaintiffs to sell the Chicken Ranch to Mr. Kahn or other
16 purchaser regardless of that purchaser's domicile.

17 C. Injunctive relief permitting plaintiff Rivenburgh to be placed on the existing license
18 for the Chicken Ranch

19 D. Compensatory and punitive damages in an amount to be determined at trial.

20 E. Reasonable costs and attorneys fees; and

21 F. Any further relief the court deems reasonable.

22 Dated this 18th day of June 2009.

23 Respectfully submitted by:

24 /s/
25 Allen Lichtenstein
26 Nevada Bar No: 3992
27 3315 Russell Rd., No. 222
28 Las Vegas NV, 89120
(702) 433-2666 – phone
(702) 433-9591 – fax
alichtensteinlaw@aol.com
attorney for plaintiffs