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9 Attorneys for Plaintiff Robert White, an individual
10 and all others similarly situated

11
12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15
16 ROBERT WHITE, an individual, and all others
17 similarly situated

18 Plaintiff,

19 v.

20 SQUARE, INC., a Delaware corporation,

21 Defendant.
22

Case No.

CLASS ACTION

JURY TRIAL DEMANDED

**COMPLAINT FOR UNRUH LAW
CIVIL RIGHTS VIOLATIONS**

1 Comes now plaintiff Robert White (Bankruptcy Law Firm) on behalf of himself
2 and all others similarly situated and alleges as follows:

3 **The Parties**

4 1. Bankruptcy Law Firm is an individual with his principal place of business
5 in San Francisco, California.

6 2. Defendant Square, Inc. (Credit Card Company) is a Delaware corporation
7 registered with the California Secretary of State as a foreign corporation qualified to do
8 business in the State of California and which has its principal place of business in San
9 Francisco, California.

10 **Jurisdiction and Venue**

11 3. Jurisdiction is present here based on 28 U.S.C. §§ 1332(d)(2), 1367(a).

12 4. Venue is present here based on 28 U.S.C. § 1391(d).

13 **Charging Allegations**

14 5. Credit Card Company is a business establishment (as that term is
15 otherwise defined in California Civil Code section 51(b)) within the jurisdiction of the
16 State of California, which business establishment is engaged in providing
17 accommodations, advantages, facilities, privileges and/or services (Accommodations) to
18 other persons and entities within the jurisdiction of the State of California, specifically
19 including but not limited to citizens of states within the United States other than the states
20 of California and Delaware, within the jurisdiction of the State of California (Persons) by
21 way of its, *inter alia*, enabling such Persons to accept electronic payments without
22 themselves directly opening up a merchant account with any Visa or MasterCard member
23 bank (Square Account). See <https://squareup.com/> (Square Website) for a fuller
24 description of the nature of what a Square Account consists of.

25 6. As of today, October 1, 2015, Section 6 of the Square Seller Agreement
26 (Bad List) reads, in pertinent part, as follows:

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1 By creating a Square Account, you ... confirm that you will not
2 accept payments in connection with the following businesses or
3 business activities: (1) any illegal activity or goods, (2) buyers or
4 membership clubs, including dues associated with such clubs, (3)
5 credit counseling or credit repair agencies, (4) credit protection or
6 identity theft protection services, (5) direct marketing or
7 subscription offers or services, (6) infomercial sales, (7)
8 internet/mail order/telephone order pharmacies or pharmacy
9 referral services (where fulfillment of medication is performed
10 with an internet or telephone consultation, absent a physical visit
11 with a physician including re-importation of pharmaceuticals from
12 foreign countries), (8) unauthorized multi-level marketing
13 businesses, (9) inbound or outbound telemarketers, (10) prepaid
14 phone cards or phone services, (11) rebate based businesses, (12)
15 up-sell merchants, (13) bill payment services, (14) betting,
16 including lottery tickets, casino gaming chips, off-track betting,
17 and wagers at races, (15) manual or automated cash disbursements,
18 (16) prepaid cards, checks, or other financial merchandise or
19 services, (17) sales of money-orders or foreign currency, (18) wire
20 transfer money orders, (19) high-risk products and services,
21 including telemarketing sales, (20) automated fuel dispensers, (21)
22 adult entertainment oriented products or services (in any medium,
23 including internet, telephone, or printed material), (22) sales of (i)
24 firearms, firearm parts or hardware, and ammunition; or (ii)
25 weapons and other devices designed to cause physical injury (23)
26 internet/mail order/telephone order cigarette, tobacco or vaporizer
27 sales, (24) drug paraphernalia, (25) occult materials, (26) hate or
28 harmful products, (27) escort services, or (28) bankruptcy
attorneys or collection agencies engaged in the collection of debt.

19 7. With the sole exception of Section 6(1) of Bad List (prohibiting
20 acceptance of payments in connection with any business or business activities involving
21 illegal activity or illegal goods), each and every other category of business/business
22 activity whose business/business activity Credit Card Company deems a “business [that]
23 is prohibited” is either so vaguely described as to be unintelligible or else constitutes an
24 entirely lawful business/business activity under any and all applicable federal and state
25 laws. This specifically includes but is not limited to the business/business activity of
26 Bankruptcy Law Firm, which entity’s business establishment sometimes involves
27 representation of creditors in federal bankruptcy proceedings and which business
28 establishment requires licensure by the State Bar, admission to the Federal Bar of the

1 Ninth Circuit as well as the Federal Bar of the Northern District of California and other
2 federal districts and which business establishment is otherwise specifically protected
3 from discrimination of the sort being practiced against Bankruptcy Law Firm here by,
4 *inter alia*, 11 U.S.C. § 525, as well as by the Unruh Civil Rights Act (Civil Code §§ 51
5 and 52 [Unruh Law]).

6 8. In Bankruptcy Law Firm's particular case, Bankruptcy Law Firm's
7 principal, Bob White, is a personal friend and business colleague of Jeremy Katz, a
8 member of the State Bar and a principal in shierkatz, RLLP, which latter entity is a
9 plaintiff in the related case of shierkatz v. Square, Inc., United States District Court, Case
10 No.
11 3:15-cv 02202 JST (the SK Case).

12 9. Mr. White has previously read this District Court's file in the SK Case and
13 has thereby become aware of Bad List and, in addition, after first checking to see that Bad
14 List remains unchanged from the date the SK Case was first filed, he has thereby been
15 dissuaded from now seeking to become a Credit Card Company customer given the fact
16 his practice area is similar to that of shierkatz, RLLP and, as such, he falls within
17 Category 28 of Bad List.

18 10. Bankruptcy Law Firm never agreed to arbitrate anything whatsoever with
19 Credit Card Company in this latter regard. Ever.

20 **Class Allegations**

21 11. Bankruptcy Law Firm brings this action on behalf of himself and all others
22 similarly situated.

23 12. The class represented by Bankruptcy Law Firm (Class) is comprised of all
24 Persons other than persons who fall within Section 6(1) of Bad List who have become
25 aware of Bad List and thereby been dissuaded from either (i) hitting the Continue button
26 on Credit Card Company's website or (ii) otherwise attempting in any other possible
27 manner to become customers of Credit Card Company, as a result of their obtaining such
28 off-putting awareness of Bad List from any source whatsoever (Class members), which

1 Class members include at least some Persons who are citizens of states within the United
2 States but who are not, in fact, also citizens of either California or Delaware.

3 13. The Class period extends back to cover all Class members who ever
4 became aware of Bad List at any time prior to the filing of this complaint as well as to
5 any Class members who become aware of Bad List while maintaining Bad List remains
6 the operative policy of Credit Card Company at any time in the future prior to
7 abandonment of Bad List or, alternatively, the certification of a Class (Class Period).

8 14. On information and belief Bankruptcy Law Firm alleges that there are tens
9 of thousands of Class members.

10 15. On information and belief, Bankruptcy Law Firm estimates that Credit
11 Card Company has incurred not less than \$100,000,000 dollars in minimum statutory
12 liability to Class members during Class Period.

13 16. Questions of law and fact common to the Class predominate over
14 questions affecting only individual members, including, *inter alia*: Whether Class
15 members are entitled to recover not less than their Unruh Law minimum statutory
16 damages of \$4,000 each.

17 17. The claims of Bankruptcy Law Firm are typical of the claims of the Class
18 members as described above.

19 18. Treating this dispute as a class action is a superior method of adjudication
20 since the joinder of all possible absent Class members would be impractical.

21 19. Additionally, the amount of each restitutionary payment would be modest
22 on an individual basis, although significant in the aggregate. It would be impractical for
23 most of Class members to address the Credit Card Company's wrongdoings individually.
24 There should be no significant difficulties in managing this case as a class action.

25 20. Bankruptcy Law Firm can and will fairly and adequately represent and
26 protect the interests of Class members. Bankruptcy Law Firm has retained competent
27 and experienced outside counsel, who will vigorously represent the interests of the Class.

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Sole Claim for Relief

(Minimum Statutory Damages [Violation of Unruh Law])

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21. Bankruptcy Law Firm realleges ¶¶ 1–20.

22. Credit Card Company’s maintenance of Bad List is and was a violation of Unruh Law entitling Bankruptcy Law Firm to not less than \$4,000 in minimum statutory damages per offense under Unruh Law and the Class to its own minimum statutory damages of \$4,000 per Class member per offense under Unruh Law.

WHEREFORE, Bankruptcy Law Firm and Class pray judgment as follows:

1. That Class described herein be certified; that Bankruptcy Law Firm be designated lead plaintiff and that Bankruptcy Law Firm’s counsel be appointed Class counsel;

2. That the Bankruptcy Law Firm and Class be awarded statutory damages in an amount to be proven at trial pursuant to Unruh Law.

3. For an award of attorney fees and costs, including but not limited to statutory attorney fees and costs;

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

Dated: October 1, 2015

McGRANE LLP
BERLINER COHEN

By: /s/ William McGrane
William McGrane

Attorneys for Plaintiff Robert White and all others
similarly situated

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DEMAND FOR JURY TRIAL

Bankruptcy Law Firm and the Class hereby demand a trial by jury.

Dated: October 1, 2015

McGRANE LLP
BERLINER COHEN

By: /s/ William McGrane
William McGrane

Attorneys for Plaintiff Robert White and all others
similarly situated