

MEMORANDUM

TO : [Name of public entity]
FROM: Steven Riess (steve@riesslaw.com)
DATE : October 30, 2007
RE : Proposed Facilities Guidelines for Marketers Targeting Seniors

Cities and counties are becoming increasingly aware of the growing problem in their communities of elder financial abuse. The purveyors of this abuse are often commercial enterprises promoting estate planning, Medi-Cal eligibility and other long-term health care planning, annuities and other complex investments, and reverse-mortgages. These legal and financial matters are extremely complex and require specialized knowledge and experience to evaluate. Elders who are persuaded to purchase such products and services usually do not understand the significance of the transaction, are impressed by the apparent expertise of the sales agent, fear institutionalization in a nursing facility while exhausting their resources, and fail to understand the true cost of the transaction. Thus, the apparent credibility and trustworthiness of the marketer is often of paramount importance in the decisions of seniors to purchase such products and services.

Marketers of abusive products and services typically reach their target audience through senior centers and other venues where seniors tend to gather. They often obtain access to such facilities by misrepresenting that their “free seminars” provide seniors with valuable educational information. Senior centers provide a familiar and ostensibly safe environment for seniors to gather. Both consciously and unconsciously, seniors may feel that the marketer and the products and services offered have been evaluated and endorsed by the senior center and therefore must be reasonable and appropriate. Usually, the immediate purpose of the presentation is not to make a sale; rather, it is to obtain the contact information of attendees so that individualized sales presentations may be scheduled.

The following represents proposed guidelines to supplement Resolution 73832 which might address this growing problem. These guidelines do not seek to actively distinguish between legitimate and abusive marketers and to thereby exclude applicants. Rather, they require the disclosure of information and impose conditions which legitimate applicants should not find objectionable but which will likely discourage abusive marketers. The disclosure of information such as advertising materials, websites, and litigation history would permit facility management to easily and quickly check background. Retaining the authority to attend and record the event or invite an elder rights advocate to provide additional information would discourage many patently unscrupulous marketers. The requirement that the application be signed under penalty of perjury adds two important features; it would discourage falsifying information, and would provide the public entity with a criminal sanction where false or misleading information has been provided. Hopefully, the presence of such requirements and conditions would provide a sufficient deterrent that their use would be unnecessary.

Section 2.1 PROTECTION OF SENIORS FROM UNSCRUPULOUS MARKETERS

Seniors are increasingly targeted by marketers of financial products. Unfortunately, some of these marketers use unscrupulous tactics and seek to sell seniors complex financial products and services which are expensive, unsuitable, and exploitative. It is a common practice of such marketers to invite seniors to presentations which are promoted as informational or educational, while their actual purpose is to gather personal contact information so that individual sales presentations may later be pursued. These presentations are many times offered at private and public senior centers. The use of public facilities for such presentations may have the unwanted effect of creating the appearance that the senior center endorses the product, service, or event presenter. In order to protect seniors and the [name of public entity] from such activities, the following shall apply to the use of all public facilities.

- A. An application for facility use by a User Type III shall include the following information:
1. Whether the use of the facility will address any financial issue of potential interest to seniors.
 2. Whether the applicant or any person affiliated with the applicant holds a life insurance license.
 3. Whether the applicant or any person affiliated with the applicant holds a securities sales license.
 4. Whether the applicant or any person affiliated with the applicant is licensed to sell or arrange mortgages or other loans.
 5. Whether the applicant or any person affiliated with the applicant holds a license to practice law.
- B. The following shall be included in an application in which any of the conditions of subsection A are present:
1. The name, address, telephone number, and website of the applicant and any person affiliated with the applicant.
 2. The type and license number of the applicant and any person affiliated with the applicant.
 3. The business card of the applicant and any person affiliated with the applicant, or a statement that the person has none.
 4. A description of the information to be presented.

5. A copy of all advertising proposed for the event, including print, audio/video, and Internet.

6. The jurisdiction and case number of any civil or criminal action which has been commenced against the applicant and any person affiliated with the applicant.

C. The following shall apply where any of the conditions of subsection A are present:

1. All advertising materials must prominently include the following statement:

“THE CITY OF [NAME OF PUBLIC ENTITY] DOES NOT ENDORSE THIS EVENT AND MAKES NO REPRESENTATIONS REGARDING THE ACCURACY OR SUITABILITY OF THE INFORMATION PRESENTED NOR THE QUALIFICATIONS OF THE PERSONS PRESENTING THE INFORMATION.”

2. All advertising materials must prominently include the license type and number of the applicant or any person affiliated with the applicant.

3. At all times during the event, a written sign must be prominently displayed containing the information required by subsections C(1) and C(2). The sign must be of sufficient size to be easily read by an attendee located furthest from the sign.

4. The applicant and any person affiliated with the applicant are prohibited from obtaining the names, addresses, telephone numbers, email addresses, or any other personal information of attendees.

5. A [name of public entity] representative may be present and may record the event by audio or visual means.

6. In its sole discretion, the [name of public entity] may invite persons other than the applicant to present additional information regarding the financial matters presented.

7. An application pursuant to Section 2.1 must be signed by the applicant under penalty of perjury.