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8 Attorney for Plaintiffs Lust

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN FRANCISCO

11 Leland Lust, by and through his guardian ad litem  
12 Dennis Morita, and Dennis Morita, trustee of the  
13 Leland Lust Living Trust,

14 Plaintiffs,

15 vs.

16 James Walker, Senior Care Advocates, Inc.,  
17 and Does 1 through 20,

18 Defendants.

Case No.

COMPLAINT FOR:

1. Elder Financial Abuse (W & I § 15610.30)
2. Fraud
3. Negligent Misrepresentation
4. Violation of Consumers' Legal Remedies Act (CC § 1750)
5. Rescission for Violation of Home Solicitation Contract (CC § 1689.5)
6. Violation of Unfair Competition Law (B & P § 17200)
7. Rescission for Lack of Capacity

19 **PRELIMINARY ALLEGATIONS**

20 1. At all times mentioned, plaintiff Leland Lust ("Lust") was a natural person over the  
21 age of 18 years. Lust is an incompetent person, and Dennis Morita (Morita), has been duly  
22 appointed guardian ad litem to prosecute this action on Lust's behalf. Dennis Morita is the  
23 successor trustee of the Leland Lust Living Trust. Each plaintiff holds some right, title, and interest  
24 in the property which is the subject matter of this action and accordingly is the real party in interest  
25 pursuant to CCP § 367.

26 2. Defendant James Walker (Walker) is a natural person. Defendant Senior Care  
27 Advocates, Inc. ("SCA") is business entity of unknown form.  
28



1 eligible for Medi-Cal benefits. Williams instructed Tommy to deliver to her a check, made payable  
2 to SCA, in the amount \$19,975 for such services.

3  
4 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
5 **(Elder Financial Abuse)**

6 10. Paragraphs 1 through 9 are incorporated by reference.

7 11. Defendants made various representations to Plaintiffs that by purchasing the services  
8 of Defendants, Plaintiffs' assets could be restructured such that Plaintiffs would become eligible for  
9 Medi-Cal benefits. As a direct result of these representations, Plaintiffs paid Defendants \$19,975.  
10 The services offered by Defendants to Plaintiffs, if any, were of no value to Plaintiffs, or if of any  
11 value, were of a value far less than the amount paid. In addition, these services were incorrect,  
12 improper, ineffective, and illegal. In engaging in such conduct, Defendants took, secreted,  
13 appropriated, and retained the property of Plaintiffs, elders, to a wrongful use within the meaning of  
14 Welfare & Institutions Code § 15610.30. Defendants engaged in such conduct either directly, or  
15 assisted others in such conduct.

16 12. In engaging in such conduct, Defendants intended to defraud Plaintiffs within the  
17 meaning of Welfare & Institutions Code § 15610.30.

18 13. As a direct and proximate cause of Defendants' wrongful conduct, Plaintiffs have  
19 been deprived of their property, namely their money, have sustained related damages of loss of  
20 income on that money, and have incurred attorney's fees and costs.

21 14. In addition to all other remedies provided by law, Plaintiffs are entitled to recover  
22 reasonable attorney's fees and costs for financial abuse pursuant to Welfare & Institutions Code §  
23 15657.5.

24 15. Defendants' conduct constituted oppression, fraud, and malice in the commission of  
25 the financial abuse and Plaintiffs are entitled to recover damages for the sake of example and by  
26 way of punishing Defendants for financial abuse pursuant to Civil Code § 3294.

27 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
28 **(Fraud)**



1 with their services by, among other things, representing that the services were worth \$19,975 when  
2 the services were of nominal or no value; (2) representing that the services have characteristics and  
3 benefits which they do not have by misrepresenting the Medi-Cal planning eligibility of Plaintiffs;  
4 (3) representing that the services are of a particular standard or quality when the services are of a  
5 different standard or quality; and (4) inserting an unconscionable provision in the contract, namely a  
6 price of \$19,975.

7 27. As a direct result of Defendants' unfair or deceptive acts or practices, Plaintiffs have  
8 been deprived of their money and property and have sustained damages of not less than \$19,975.

9 28. Defendants' wrongful conduct constituted oppression, fraud, and malice and  
10 Plaintiffs are entitled to recover damages for the sake of example and by way of punishing  
11 Defendants pursuant to Civil Code § 3294.

12 **FIFTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**  
13 **(Violation of Unfair Competition Law – B & P § 17200 *et seq.*)**

14 29. Paragraphs 1 through 28 are incorporated by reference.

15 30. Defendants' conduct as alleged in this complaint constitutes unfair, unlawful, or  
16 fraudulent acts or practices within the meaning of Business & Professions Code § 17200 *et seq.*

17 31. Specifically, Defendants engaged in unfair, unlawful, or fraudulent acts or practices  
18 by: making statements likely to deceive Plaintiffs as to the terms, value, suitability, desirability, and  
19 appropriateness of the services offered by Defendants; employing advertising and other promotional  
20 devices which misled Plaintiffs as to the terms, value, suitability, desirability, and appropriateness  
21 of the services offered by Defendants; and otherwise engaging in unfair, unconscionable, and illegal  
22 conduct.

23 32. As a direct result of Defendants' unfair, unlawful, or fraudulent acts or practices,  
24 Plaintiffs were deprived of their money and property. As a further direct result of Defendants'  
25 unfair, unlawful, or fraudulent acts or practices, Plaintiffs are entitled to restitution.

26 33. Plaintiffs seek injunctive relief against further acts and practices by Defendants  
27 constituting unfair competition in violation of Business & Professions Code § 17200. The legal  
28 remedy of damages is inadequate because recovering damages will not prevent the ongoing harm

1 caused by Defendants' continued unfair business practices.

2 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

3 1. Elder Financial Abuse (W & I Code § 15610.30):

- 4 a. Compensatory damages according to proof;
- 5 b. Reasonable attorney's fees and costs according to proof;
- 6 c. Punitive damages according to proof;
- 7 d. Treble damages pursuant to CC § 3345;

8 2. Fraud:

- 9 a. Compensatory damages according to proof;
- 10 b. Punitive damages according to proof;
- 11 c. Treble damages pursuant to CC § 3345;

12 3. Negligent misrepresentation:

- 13 a. Compensatory damages according to proof;

14 4. Violation of the Consumers' Legal Remedies Act (CC § 1750):

- 15 a. Compensatory damages according to proof;
- 16 b. Punitive damages according to proof;
- 17 c. Treble damages pursuant to CC § 3345;

18 5. Violation of Unlawful Competition Law (B & P § 17200):

- 19 a. Compensatory damages according to proof;
- 20 b. Punitive damages according to proof;
- 21 c. Treble damages pursuant to CC § 3345;

22 d. For preliminary and permanent injunctive relief prohibiting defendants from  
23 engaging in further acts of unfair competition;

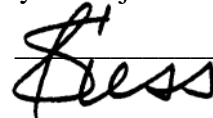
- 24 e. Reasonable attorney's fees and costs according to proof;

25 6. Interest pursuant to CC §§ 3287 and 3288;

26 7. Costs pursuant to CCP § 1032; and

27 8. For such further relief as the court may deem just.

28 Dated: July 25, 2007



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Steven Riess  
Attorney for Redwood