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

11 Lloyd Morrill,

12 Plaintiff,

13 vs.

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

15 Defendants.
16

Case No. CGC-08-472357

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. Violation of Unfair Competition Law (B & P § 17200)

17 **PRELIMINARY ALLEGATIONS**

18 1. At all times mentioned, plaintiff Lloyd Morrill was a natural person over the age of
19 18 years.

20 2. Plaintiff was born on July 26, 1926, and was 80 years old at the time of the events
21 alleged in this complaint; he is currently 81 years old. Defendant James Walker (Walker) is a
22 natural person. Defendant Senior Care Advocates, Inc. ("SCA") is business entity of unknown form.

23 3. The true names and capacities of defendants sued as Does are unknown, and plaintiff
24 will amend this complaint to show their true names and capacities when this information is
25 ascertained. Each Doe defendant is in some manner responsible for the damages alleged pursuant to
26 each cause of action asserted, either through its own conduct, or vicariously through the conduct of
27 others. All further references in this complaint to any of the named defendants, or to defendants
28 generally, shall include such fictitiously named defendants.

1 Susan that Medi-Cal would have the right to recover all amounts paid for Mary's support out of
2 Lloyd's residence. Defendants' representative also advised them that should Lloyd need to enter a
3 skilled nursing facility that he would not be entitled to Medi-Cal benefits because of his ownership
4 of the residence. He therefore advised Lloyd to sell the residence and for Lloyd to thereafter transfer
5 all of the net proceeds of sale to others as gifts.

6 10. Defendants' representative demanded that Lloyd pay defendants a fee of \$20,000.
7 After some discussion regarding the inability of Lloyd to pay this amount, the fee was reduced to
8 \$19,500. On November 22, 2006, Lloyd paid defendants this fee of \$19,500.

9 11. Pursuant to the instructions of defendants, Lloyd offered the Dawnridge residence
10 for sale. On February 23, 2007, escrow closed on the sale of this property. The net proceeds of sale
11 amounted to \$310,017. Thereafter, Lloyd followed defendants' instructions and gifted to family
12 members a total of \$250,000. Lloyd currently resides with Susan at her residence in Carmichael.

13 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**
14 **(Elder Financial Abuse)**

15 12. Paragraphs 1 through 11 are incorporated by reference.

16 13. Defendants made various representations to plaintiff that by purchasing the services
17 of defendants, defendants would protect plaintiff's assets from a Medi-Cal recovery claim and
18 render him eligible for Medi-Cal benefits as well. As a direct result of these representations,
19 plaintiff paid defendants \$19,500. The services and advice offered by defendants to plaintiff, if any,
20 were of no value to plaintiff, and in fact were harmful because plaintiff's residence was not subject
21 to a Medi-Cal recovery claim and should plaintiff require services potentially covered by Medi-Cal,
22 he could have easily become eligible. Moreover, by advising plaintiff to sell his residence and give
23 away the net proceeds of sale, defendants caused plaintiff to lose most of his savings and assets. In
24 engaging in such conduct, defendants took, secreted, appropriated, and retained the property of
25 plaintiff, an elder, to a wrongful use within the meaning of Welfare & Institutions Code § 15610.30.
26 Defendants engaged in such conduct either directly, or assisted others in such conduct.

27 14. In engaging in such conduct, defendants intended to defraud plaintiff within the
28 meaning of Welfare & Institutions Code § 15610.30.

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**THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS
(Negligent Misrepresentation)**

24. Paragraphs 1 through 23 are incorporated by reference.

25. In providing plaintiff with advice, defendants owed plaintiff a duty to provide him with accurate information and recommendations which were in plaintiff's best interests. Defendants acted negligently and unreasonably and breached this duty by advising plaintiff to sell his residence and to give away the net proceeds of sale and other assets when doing so was unwarranted and unreasonable.

26. As a direct and proximate result of defendants' wrongful conduct, plaintiff sustained damages as set forth herein.

**FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
(Violation of Consumers' Legal Remedies Act (CC § 1750))**

27. Paragraphs 1 through 26 are incorporated by reference.

28. Defendants violated the Consumers' Legal Remedies Act by engaging in unfair or deceptive acts or practices by doing the following: (1) using deceptive representations in connection with their services by, among other things, representing that the services were worth \$19,500 when the services were of nominal or no value; (2) representing that the services have characteristics and benefits which they do not have by misrepresenting the exposure of plaintiff to a Medi-Cal recovery claim and by misrepresenting plaintiff's Medi-Cal eligibility; (3) representing that the services are of a particular standard or quality when the services are of a different standard or quality; and (4) inserting an unconscionable provision in the contract, namely a price of \$19,500.

29. As a direct result of defendants' unfair or deceptive acts or practices, plaintiff has been deprived of his money and property and has sustained damages as set forth herein.

30. Defendants' wrongful conduct constituted oppression, fraud, and malice, and plaintiff is entitled to recover damages for the sake of example and by way of punishing defendants pursuant to Civil Code § 3294.

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

4 31. Paragraphs 1 through 30 are incorporated by reference.

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

7 33. Specifically, defendants engaged in unfair, unlawful, or fraudulent acts or practices
8 by: making statements likely to deceive plaintiff as to the terms, value, suitability, desirability, and
9 appropriateness of the services offered by defendants; employing advertising and other promotional
10 devices which misled plaintiff as to the terms, value, suitability, desirability, and appropriateness of
11 the services offered by defendants; and otherwise engaging in unfair, unconscionable, and illegal
12 conduct.

13 34. As a direct result of defendants' unfair, unlawful, or fraudulent acts or practices,
14 plaintiff was deprived of his money and property. As a further direct result of defendants' unfair,
15 unlawful, or fraudulent acts or practices, plaintiff is entitled to restitution.

16 35. Plaintiff seeks injunctive relief against further acts and practices by defendants
17 constituting unfair competition in violation of Business & Professions Code § 17200. The legal
18 remedy of damages is inadequate because recovering damages will not prevent the ongoing harm
19 caused by defendants' continued unfair business practices.

20 WHEREFORE, plaintiff prays for judgment against defendants as follows:

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

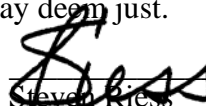
- 22 a. Compensatory damages according to proof;
- 23 b. Reasonable attorney's fees and costs according to proof;
- 24 c. Punitive damages according to proof;
- 25 d. Treble damages pursuant to CC § 3345;

26 2. Fraud:

- 27 a. Compensatory damages according to proof;
- 28 b. Punitive damages according to proof;
- c. Treble damages pursuant to CC § 3345;

- 1 3. Negligent misrepresentation:
 - 2 a. Compensatory damages according to proof;
- 3 4. Violation of the Consumers' Legal Remedies Act (CC § 1750):
 - 4 a. Compensatory damages according to proof;
 - 5 b. Punitive damages according to proof;
 - 6 c. Treble damages pursuant to CC § 3345;
- 7 5. Violation of Unlawful Competition Law (B & P § 17200):
 - 8 a. Restitution of all amounts delivered to defendants;
 - 9 b. Preliminary and permanent injunctive relief prohibiting defendants from
10 engaging in further acts of unfair competition;
 - 11 c. Reasonable attorney's fees and costs according to proof;
- 12 6. Interest pursuant to CC §§ 3287 and 3288;
- 13 7. Costs pursuant to CCP § 1032; and
- 14 8. For such further relief as the court may deem just.

15 Dated: February 20, 2008



Steven Riess
Attorney for Plaintiff