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CAUSE NO. 2008-44197

STATE OF TEXAS
Plaintiff

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IN THE DISTRICT COURT

V.

HARRIS COUNTY, TEXAS

VIRGINIA KUYKENDAHL
OWNERS/OPERATORS
OF AN UNLICENSED ASSISTED
LIVING FACILITY
Defendants

334th JUDICIAL DISTRICT

AGREED ORDER GRANTING PERMANENT INJUNCTION

Plaintiff, the State of Texas, by and through the Harris County Attorney's Office, and Defendant VIRGINIA KUYKENDAHL submit this Order Granting Permanent Injunction.

By their duly authorized signatures below, all parties represent to the Court the following:

1. They understand and agree to the terms of this judgment;
2. This judgment represents a compromise and settlement of all matters placed in issue by the State of Texas' Original Petition and Application;
3. They waive all rights of appeal;
4. They waive the necessity of the issuance and service of the writ of injunction;
5. They waive the requirements of Texas Rules of Civil Procedure 680-691;
6. They actively participated in the negotiations leading up to this judgment and are aware of the duties placed upon them by it and are desirous and capable of carrying out those duties in full; and
7. The parties enter this agreement because of the uncertainties and litigation.

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The parties request that the Court approve this final judgment.

This suit was filed by the State of Texas alleging that VIRGINIA KUYKENDAHL owned/operated an assisted living facility without a valid license as required by TEX. HEALTH & SAFETY CODE Chapter 247.

This Court has reviewed this judgment and finds it is proper and consistent with the intent and purposes of Chapter 247 of the TEX. HEALTH & SAFETY CODE and the regulations promulgated thereunder. The Court approves it in all respects.

I. INJUNCTIVE PROVISIONS

This Court hereby ORDERS, ADJUDGES AND DECREES that Defendant, VIRGINIA KUYKENDAHL, her agents, successors and assigns, and all persons with notice of this injunction, are permanently enjoined from:

- (a) Operating the unlicensed assisted living facilities located at 1110 Nashua St., Houston, Texas and/or 7119 Farnsworth, Houston, Texas as an assisted living facility without an assisted living facility license;
- (b) Operating any other assisted living facility in Texas without an assisted living facility license;
- (c) Admitting or retaining at the unlicensed facilities located at, 1110 Nashua St., Houston, Texas and/or 7119 Farnsworth, Houston, Texas more than a total of three (3) residents who are in need of personal care services until such time as Defendant obtains an assisted living facility license for that facility;
- (d) Providing personal care services at the unlicensed facility located at, 1110 Nashua St., Houston, Texas and/or 7119 Farnsworth, Houston, Texas to

more than a total of three (3) residents unrelated to Defendant until such time as Defendant obtains an assisted living facility license for that facility;

- (e) Providing personal care services at any unlicensed assisted living facility to residents unrelated to Defendant until such time as Defendant obtains an assisted living facility license for that facility; and
- (f) Denying any agent of the Texas Department of Aging and Disability Services, and any other agents of the State, access to the unlicensed facility located at 1110 Nashua St., Houston, Texas and/or 7119 Farnsworth, Houston, Texas, or any other assisted living facility operated by Defendant, in order to monitor compliance with this order.
- (g) Interfering with agents of the Texas Department of Aging and Disability Services or any other agents of the State involved in the relocation and transferring of the residents requiring personal care services;
- (h) Failing to care for residents on a temporary or emergency basis while agents of the Texas Department of Aging and Disability Services, and any other agents of the State involved in the relocation, supervise and effectuate the transfer of any residents requiring personal care services to other licensed facility;
- (i) Failing to follow any instructions given by agents of the Texas Department of Aging and Disability Services, and any other agents of the State involved in the relocation, to Defendant and his agents in order to temporarily care for residents while the agents supervise and effectuate the

transfer of the residents to a licensed facility;

- (j) Denying any agent of the Texas Department of Aging and Disability Services, and any other agents of the State involved in the relocation, access to the unlicensed assisted living facility located at 1110 Nashua, Houston, Texas or 7119 Farnsworth, Houston, Harris County, Texas or any other assisted living facility operated by Defendant in order to monitor compliance with this order;
- (k) Withholding from residents, or their representatives, any property or records to which the residents are entitled.

II. CIVIL PENALTIES

A. The Court ORDERS that the Harris County Attorney shall have and recover from VIRGINIA KUYKENDAHL the sum of Ten Thousand Dollars and no/100 (\$10,000.00) for civil penalties. These penalties shall be abated unless or until VIRGINIA KUYKENDAHL operates/owns/controls any assisted living without a license after the date of signing this order.

III. ATTORNEY'S FEES AND COURT COSTS

A. The Court ORDERS that the Harris County Attorney shall have and recover from VIRGINIA KUYKENDAHL, the sum of Seven Hundred and Fifty Dollars and no/100 for attorney's fees. These attorney's fees shall be abated unless and until VIRGINIA KUYKENDAHL operates/owns/controls and unlicensed assisted living facility. Additionally, the Court ORDERS that VIRGINIA KUYKENDAHL shall pay the costs of service in this cause in the amount of Seventy Five Dollars (\$75.00) to the Harris County Attorney's Office.

B. The Court further ORDERS that VIRGINIA KUYKENDAHL shall pay court costs of this proceeding. The payment of these court costs shall be made to Harris County District Clerk Theresa Chang as directed in Paragraph IV and shall be made on or before Two Hundred Twenty-Eight Dollars and no/100 (\$228.00). This amount shall be paid within 60 days.

**IV. MANNER AND PLACE OF PAYMENT OF PENALTIES,
ATTORNEY'S FEES AND COSTS**

A. The Court ORDERS that VIRGINIA KUYKENDAHL shall pay all sums required by this judgment by cashier's check or money order. The penalties and attorney's fee payments and cost of service shall be made by cashier's checks or money orders payable to the Harris County Attorney and shall bear the identifying number 415043 ALF. These checks or money orders shall be delivered to Charles N. Walker, Compliance Division, at the address noted beneath his signature line. Defendant's cashier's check or money order for court costs shall be made payable to Harris County District Clerk, Theresa Chang, and shall be delivered to 201 Caroline, Houston, Texas 77002. This check or money order shall bear the identifying number 2008-44197.

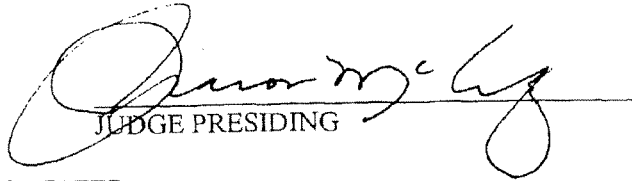
V. OTHER RELIEF

The Court ORDERS that VIRGINIA KUYKENDAHL, her agents, servants, and employees shall not deny any agent of the Texas Department of Aging and Disability Services or the Harris County Attorney's Office access to, 1110 Nashua St., Houston, Texas and 7119 Farnsworth, Houston, Texas, or any other facility operated by VIRGINIA KUYKENDAHL, to monitor compliance with this final judgment.

The Court further ORDERS that Harris County and the State of Texas be allowed all such writs and processes necessary in the collection or enforcement of this judgment.

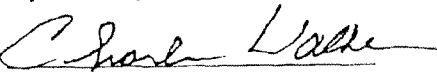
THE COURT DENIES ANY AND ALL RELIEF NOT EXPRESSLY GRANTED
HEREIN.

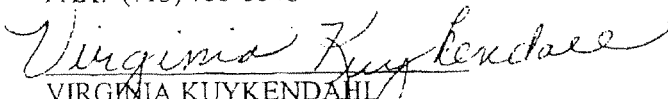
SIGNED this 18th day of August, 2008.


JUDGE PRESIDING

AGREED AND ENTRY REQUESTED

Harris County Attorney
MIKE STAFFORD
County Attorney

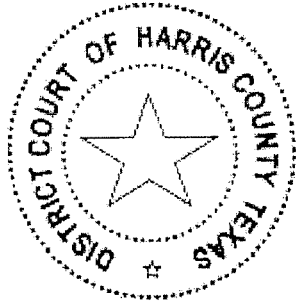
By: 
Charles N. Walker
Assistant County Attorney
SBN 20695200
1310 Prairie, Ste. 880
Houston, Texas 77002
(713) 755-7164
FAX: (713) 755-8848


VIRGINIA KUYKENDAH
OWNER/OPERATOR

FILED
AUG 14 2008
CLERK OF COURT

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BY _____
DEPUTY



I, Theresa Chang, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this September 3, 2008

Certified Document Number: 39057095 Total Pages: 6

THERESA CHANG, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com