

Exhibit E

IN THE SUPERIOR COURT
FOR THE DISTRICT OF COLUMBIA

- - - - - x
SENIOR DWELLING, INC. :
Plaintiff, :

vs. : Case No.
2014-CA-000643B
DISTRICT OF COLUMBIA, :
Defendant. :
- - - - - x

September 3, 2014

Washington, D.C.

DEPOSITION OF:

SHARON MEBANE

Was called for examination by counsel for the
Plaintiff, pursuant to notice, in the offices of,
Doumar Martin, 1629 K Street, N.W., Suite 300,
Washington, D.C., commencing at 10:04 a.m., before
Carolyn Friend, a Notary Public in and for the
District of Columbia, when were present on behalf of
the respective parties:

1 intellectual disabilities and the elderly and
 2 assisted living, child placement agencies, which is
 3 the adoption agencies. It's six. I don't know if I
 4 counted all six. And then the federal ICF.
 5 **Q What is ICF?**
 6 A Intermediate care facilities.
 7 **Q Are you still doing that?**
 8 A Yes.
 9 **Q How long have you done that, been in this**
 10 **current position at the Department of Health?**
 11 A Well, my program manager position only
 12 since '95, but I have been with -- as a surveyor for
 13 that division since '95, '96.
 14 **Q You have been a program manager since**
 15 **about 1995, you said?**
 16 A I'm sorry. Hold on. 2005. I'm sorry.
 17 **Q Yeah. The chronology didn't look quite**
 18 **right.**
 19 A Yeah.
 20 **Q I may have skipped over this. At some**
 21 **point you went to Morgan State and moved to**
 22 **Washington. Did you get any further formal**
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1 education?
 2 A Yes. I got a master's in health
 3 education from Howard University.
 4 **Q When did you get that master's?**
 5 A In '95.
 6 **Q Okay. And you were still at DCRA, you**
 7 **think, when you were doing that?**
 8 A Yes, I was.
 9 **Q But you were soon to be transitioned over**
 10 **to DOH?**
 11 A That's correct.
 12 **Q You talked about some of the health**
 13 **facilities that are -- you regulate as part of your**
 14 **job or the agency regulates. How would you define,**
 15 **sort of your terms, what a community residence**
 16 **facility is?**
 17 A A community residential facility is a
 18 group home that serves various levels of --
 19 individuals with various levels of functioning. It
 20 depends. There are CRFs for people with
 21 intellectual disabilities, there are CRFs for people
 22 with behavioral health, there is for the elderly.
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1 So I regulate the community residential
 2 facilities for people with intellectual disabilities
 3 and also those for the elderly.
 4 **Q How is that different or is it when you**
 5 **say for intellectual disabilities and the elderly?**
 6 **You say with various levels of functioning. Are**
 7 **those people who cannot -- you say various levels.**
 8 **Are people in CRFs generally people who have some**
 9 **problems functioning?**
 10 A Yes.
 11 **Q So people with intellectual disabilities,**
 12 **for example?**
 13 A Yes, or physical disabilities.
 14 **Q When you're saying intellectual**
 15 **disabilities, you are talking about people who have**
 16 **some --**
 17 A They have an Axis II diagnosis.
 18 **Q And what does that mean, some mental**
 19 **illness?**
 20 A It's mental retardation is the formal
 21 name for it.
 22 **Q I thought that was right, but as a**
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1 layman, my children will tell you that maybe I'm
 2 intellectually disabled, but they don't mean it in
 3 that way. They don't really say that.
 4 And for physical disabilities, what kinds
 5 of people are generally covered by --
 6 A That need some assistance with their
 7 activities of daily living.
 8 **Q What about the elderly? Are they**
 9 **necessarily in CRFs or can they be in like a variety**
 10 **of living environments?**
 11 A Well, the elderly can either be in a CRF,
 12 meaning they need less assistance than someone that
 13 lives in assisted living or a nursing home.
 14 **Q You mentioned federal ICF. I just didn't**
 15 **know what that meant.**
 16 A It's an institution for -- it could be --
 17 it's community-based and it serves individuals with
 18 intellectual disabilities that have some federal
 19 oversight.
 20 **Q How would the federal government have**
 21 **oversight necessarily of people?**
 22 A They're granted -- we receive a grant
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1 that we are all certified federally to provide
2 oversight and ensure that the Medicaid funding is
3 being properly spent.

4 **Q I got it. You are also supervising**
5 **nursing homes, you said?**

6 A I'm not.

7 **Q You are not anymore?**

8 A No. I've never been.

9 **Q You have never done nursing homes?**

10 A No. That's -- the nursing home is under
11 the umbrella of the Health Regulation & Licensing
12 Administration.

13 **Q Is that under the Department of Health or**
14 **is that --**

15 A In the Department of Health.

16 **Q How many community residential facilities**
17 **are there in the city, approximately?**

18 A We have -- there's -- for the elderly
19 there is only seven. For the intellectual
20 disabilities there are approximately 28, and for the
21 ICFs, which are considered CRFs with the federal
22 oversight, there's 72.

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1 **Q And when you say facilities, are they**
2 **basically, apartments or small houses, institutions?**

3 A All of them. It could be four beds or
4 more for the ICFs and for the others it could be one
5 to two beds and up. We have from -- ranging from
6 two beds to over a hundred-bed facilities.

7 **Q How would one go about being licensed as**
8 **a community residential facility? I guess I should**
9 **ask a foundation question. Do you have to be**
10 **licensed to be a community residential facility?**

11 A Yes.

12 **Q How would one go about doing that?**

13 A Well, they have to have -- fill out an
14 application, which includes a fire inspection done
15 by the DC Fire Department. If it's 70 beds or more,
16 they have to have a certificate of occupancy, they
17 have to have insurance, they have to have -- the
18 provider has to submit various background checks.

19 They have to have clean hands, they have
20 to have a certificate of good standing for their
21 corporation. We do -- once the initial application
22 process is processed and approved, then we go out

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1 and do an inspection to ensure that they are in
2 compliance with title -- it depends on what -- what
3 type of facility it is, but we have to make sure
4 they're in compliance with the -- their regulations
5 that they are governed under.

6 For example, for the ICFs, we have to
7 ensure that they're in compliance with Chapter 35.
8 For the group homes or the CRFs for the elderly,
9 they have to be in compliance with Chapter 34.

10 **Q Are there some places that have elderly**
11 **people who have intellectual disabilities too or --**

12 A Oh, yes.

13 **Q How does one determine whether it gets**
14 **slotted in the elderly category or the intellectual**
15 **disabilities category or is it just mixed?**

16 A No. You can't be in a CRF for people
17 with intellectual disabilities unless you have an
18 Axis II diagnosis and you're placed there by the
19 Department of Disability Services.

20 **Q And that CRF would be strictly for people**
21 **with intellectual disabilities --**

22 A That's correct.

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1 **Q -- who have an Axis II diagnosis?**

2 A Yes.

3 **Q Some elderly people could, presumably,**
4 **have an Axis II diagnosis?**

5 A Yeah, most of them are elderly.

6 **Q All the CRFs are -- they are not owned by**
7 **the DC Government, are they, or are some of --**

8 A None of them are owned by the DC
9 Government.

10 **Q Are CRFs, is that just different -- I**
11 **think it is, but is it different from an**
12 **assisted-living facility?**

13 A Yes.

14 **Q How is it different? I think you may**
15 **have touched on this, but --**

16 A It's the level of care they provide.

17 **Q Is the level of care less at a CRF than**
18 **at an assisted-living --**

19 A Yes.

20 **Q When, if you remember, did you first have**
21 **any contact with Senior Dwelling or another company**
22 **that was at one time managed by the same person,**

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1 **Blessed Home?**

2 A Did I personally have any contact with
3 them?

4 **Q Yes.**

5 A In what sense?

6 **Q In any sense. We'll start with -- do you
7 remember the company Blessed Home, Inc.?**

8 A Yes.

9 **Q What do you remember about that?**

10 A They were licensed by us as a community
11 residential facility for the elderly and physical
12 disabled.

13 **Q And do you remember anything other than
14 the fact that they were licensed?**

15 A What do you mean?

16 **Q Well, did you meet Ms. Ogbenna during
17 that time?**

18 A I don't recall meeting Ms. Ogbenna at
19 that time when they were Blessed Home.

20 **Q Did you ever visit any of the Blessed
21 Home houses?**

22 A I did not.

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1 **reviewed?**

2 A I basically reviewed my fact sheet that I
3 had prepared for an earlier case. That's about it,
4 and some investigations that my office conducted.

5 **Q You said a fact sheet for an earlier
6 case. What case was that?**

7 A I just put -- it wasn't a case. It was
8 more of a meeting that I had to attend.

9 **Q Who was at that meeting?**

10 A The deputy mayor, the office, Rachel
11 Joseph, a couple of people from OAG, a couple of
12 people from the office of Long-Term Care Ombudsman
13 Office, Adult Protective Services, DCRA.

14 **Q A lot of people were there?**

15 A A lot of people, yes.

16 **Q Was Senior Dwelling the focus of that
17 meeting or was it --**

18 A Yes.

19 **Q -- other items? Just Senior Dwelling?**

20 A Yes.

21 **Q What was the reason for the meeting?**

22 A The meeting was to ensure that people

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1 **Q Were there any issues or problems with
2 Blessed Home that you remember?**

3 A I do remember one of their facilities, we
4 had an issue of getting an acceptable plan of
5 correction. We survey them annually and we cite
6 deficient practices and then, based on the deficient
7 practice, they submit a plan of correction. And
8 then we had an issue. Either -- and I can't
9 recall -- either we did not get an acceptable plan
10 of correction or we didn't receive a plan of
11 correction at all.

12 So Blessed Home decided to withdraw their
13 license, surrender their license as a CRF.

14 **Q Is that something you remember
15 independently or is that something that you kind of
16 reminded yourself of in preparing for this
17 deposition?**

18 A Oh, no. I remember it.

19 **Q Did you review any documents to prepare
20 for the deposition today?**

21 A Yes.

22 **Q Do you recall, generally, what you**

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1 that were living there were safe.

2 **Q Do you recall when this occurred about,
3 approximately?**

4 A It was like January.

5 **Q Of this year?**

6 A Yes.

7 **Q Do you recall if there was any conclusion
8 at that meeting?**

9 A No. Conclusion?

10 **Q Obviously, a lot of people met. Was
11 there any decision made as a result of that meeting
12 by any agency official?**

13 A No, other -- not really. It was just
14 more of a discussion as to what the facts were, what
15 was going on.

16 **Q What was the conclusion? Was there a
17 consensus reached as to what the facts were with
18 respect to Senior Dwelling?**

19 A Not really. We were supposed to have
20 another meeting, but it hasn't occurred.

21 **Q Now, when did you first become -- we
22 talked about Blessed Home. When did you first**

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1 become aware of Senior Dwelling, approximately?

2 A Maybe 2009.

3 Q What happened to bring them onto your
4 awareness?

5 A Well, like I said, I was fairly new as
6 the program manager at that time and we had just --
7 my office had just merged with another office that
8 we provided oversight to CRFs for the elderly, which
9 was Blessed Home. So they were new to me, and
10 that's why I remember that we -- that they had
11 surrendered their license based on the failure to
12 provide a plan of correction or an acceptable plan.

13 Q Did you become aware that they were
14 licensed as a rooming house at some point?

15 A Yes.

16 Q When did that happen?

17 A When we first got the first complaint
18 that they were continuing to operate in lieu of
19 surrendering of their license. Our surveyor went
20 out. We did a preliminary -- when they went out,
21 they found that they were operating, and then during
22 their investigation, they determined that they were

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1 Exhibit Number 1 was marked
2 for Identification.)

3 BY MR. DOUMAR:

4 Q In the documents produced, this was the
5 first e-mail I saw that may be construed as a
6 complaint from December 2009. Does this ring your
7 bell -- ring a bell as to a complaint that may have
8 come in from Mary Parker?

9 A Yes.

10 Q She starts with: As you are aware, the
11 DC Long-term Care Ombudsman program has been
12 receiving complaints from residents.

13 Do you know if she had contacted you or
14 someone from the office had contacted you before
15 receiving this e-mail?

16 A I don't recall if there was one prior to
17 this.

18 Q Sitting here today, do you recall this
19 e-mail specifically?

20 A I do.

21 Q What did you do when you received this?

22 A We assigned Louis Woodard, who was the

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1 operating as a rooming house.

2 Q That's what it appears initially.
3 Somebody went out and talked to people at the house?

4 A Yes.

5 Q And determined that, based on that
6 review, that they were, in fact, a rooming house?

7 A Yes.

8 Q Do you remember the person who did that
9 investigation?

10 A There were three at different times.

11 Q Do you recall where the complaint came in
12 from at that time?

13 A DC Long-term Care Ombudsman Office.

14 Q I will show you that -- do you recall
15 that it was Mary Parker? Or do you know?

16 A Yes. I think it was.

17 Q I will pull some documents and I will ask
18 you about some of these. I'm going to show you some
19 e-mails.

20 MR. DOUMAR: Go ahead and mark this stack
21 as Exhibit Number 1.

22 (Whereupon, Deposition

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1 supervisor at the time over CRF's. He assigned it
2 for an investigation.

3 Q And what happened as a result of that
4 investigation? Do you recall?

5 A I don't recall.

6 Q I'm going to show you that document.

7 MR. DOUMAR: Let's mark this as
8 Plaintiff's Number 2.

9 (Whereupon, Deposition
10 Exhibit Number 2 was marked
11 for Identification.)

12 BY MR. DOUMAR:

13 Q I've handed you, Ms. Mebane -- Mebane.

14 A That's correct.

15 Q I'm going to get that well before ending
16 the deposition -- what's been marked for
17 identification as Number 2. There may be -- I was
18 going to say, there's multiple documents in here.

19 The first one is dated January 5th, 2010, and this
20 appears to be something from -- through Mr. Woodard
21 supervisor, and on January 5th, the first document
22 was introduction, findings, and a conclusion.

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- 1 A Right.
- 2 Q And then there seems to be a second
- 3 document dated the same day, and both of these are
- 4 addressed to you, that is similar, but a little bit
- 5 different, maybe a little bit more detailed. And
- 6 there is a third document that has some more detail
- 7 still.
- 8 A Um-hmm.
- 9 Q So do you recognize these documents?
- 10 A Yes, I do.
- 11 Q Do you know why three documents were
- 12 generated instead of one document?
- 13 A Sure.
- 14 Q Why don't you tell me that.
- 15 A There are three different addresses and
- 16 each address is a different complaint.
- 17 Q Okay. It looks like it was -- how were
- 18 the complaints different for each address?
- 19 A Well, the complaint that you showed me --
- 20 Q With the e-mail?
- 21 A With the e-mail said it was on 56th
- 22 Place, Northwest.

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- 1 Senior Dwelling were properly licensed rooming
- 2 houses, correct?
- 3 A I don't think -- I think one of them
- 4 indicated differently.
- 5 Q Can you show me that?
- 6 A Let me have this one.
- 7 Q Because when I look at the conclusions of
- 8 each report, the conclusion of each one --
- 9 A Maybe I'm thinking about something else.
- 10 Q Okay. The third one raises some issues
- 11 about maybe referring something to DCRA --
- 12 A Um-hmm.
- 13 Q -- at least initially? And there was
- 14 some investigation or some determination of these
- 15 facilities that they were generally operated as
- 16 rooming houses; is that correct?
- 17 A Based on -- his conclusion was based on
- 18 the written evidence and what the owner had informed
- 19 him of.
- 20 Q Well, you're looking at -- is that the
- 21 third report dated January 7th, 2010?
- 22 A Yes.

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- 1 Q Right. And there was a different
- 2 complaint for the other locations?
- 3 A Yes.
- 4 Q Did all the complaints come in from Mary
- 5 Parker?
- 6 A The initial ones, yes, from that office.
- 7 If not her, someone from her office.
- 8 Q That's what it looks like from the stack
- 9 of e-mails, that the initial complaints mostly came
- 10 in from -- I didn't see any complaints not from Mary
- 11 Parker or her office.
- 12 Do you recall any complaints -- receiving
- 13 any complaints from anyone else initially in 2009?
- 14 A 2009, I don't recall.
- 15 Q So it looks like all three complaints and
- 16 all three locations listed were investigated and
- 17 each case was different -- different staffers went
- 18 out and did the investigation it looks like at all
- 19 three places?
- 20 A Yes.
- 21 Q In each case, the conclusion was that
- 22 these were -- the facilities or houses operated by

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- 1 Q And the first report dated January 5th
- 2 regarding 503 North Capitol Street indicates that an
- 3 investigator went out there and --
- 4 A Right.
- 5 Q -- and at least talked to one resident
- 6 and talked to some other people who gave him the
- 7 impression or from which he formed the conclusion
- 8 that this was operated as a properly permitted
- 9 rooming house?
- 10 A That's correct.
- 11 Q And the second letter for 4910 First
- 12 Street, that person seemed to talk to several people
- 13 which he set forth here, and he concluded that this
- 14 house was operated as a properly permitted rooming
- 15 house?
- 16 A That's correct.
- 17 Q And as you said, the third person relied
- 18 in part on what he was told and the written evidence
- 19 that was provided.
- 20 A That's correct.
- 21 Q When you receive these reports, rooming
- 22 houses -- as to the rooming house, what did you do

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1 with these reports, if anything?

2 A Well, we informed the Long-term Care or
3 the complainant of our findings.

4 Q How did you inform them?

5 A Probably at that time was probably
6 through e-mail or maybe verbal. I don't recall
7 because that would be Mr. Woodard's position to do.

8 Q Mr. Woodard would have relayed something
9 to the --

10 A Yes.

11 Q I just didn't see a paper trail after
12 these reports of what had happened.

13 A It would have probably been through an
14 e-mail with him. I think at that time, we were
15 doing a lot of corresponding through e-mail, but we
16 no longer have that process.

17 Q Why is that?

18 A Now we have, actually, a written letter,
19 the acknowledgment of a complaint and also a
20 response, even if it's proven not to be
21 substantiated.

22 Q When did you change the procedure to get
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1 DCRA, when did --

2 A We were asked to assist them.

3 Q When did that happen?

4 A I don't recall.

5 Q That wasn't back in 2009, was it?

6 A No, no.

7 Q That was sometime subsequently?

8 A Yes.

9 Q Do you recall the circumstances under
10 which you were called in by DCRA?

11 A Yes.

12 Q Why don't you explain that?

13 A Well, we got a call from Kevin Carter,
14 who was the chief investigator for DCRA, who asked
15 us did we know anything about the property at 56th
16 Place. And we informed them that we had had some
17 investigations there prior -- a year or so prior
18 regarding -- not investigation, but we assisted the
19 fire department in doing an inspection of 56th
20 Place, and that they were licensed, as they knew, as
21 a rooming house.

22 Q Then what happened?

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1 a little more formal about things, which is what it
2 sounds like you've done?

3 A Yeah. Probably within the last three to
4 four years.

5 Q Do you recall when the next follow-up was
6 on this matter?

7 A What do you mean?

8 Q I mean, obviously, we are here today, so
9 this was -- once there is some investigation
10 determining that these were rooming houses, does the
11 Department of Health have any jurisdiction over
12 rooming houses?

13 A No, we do not.

14 Q Would you have had occasion to
15 investigate a rooming house, generally, such as
16 this?

17 A To investigate a rooming house?

18 Q Yes.

19 A No. We were called in to assist the
20 Department of Consumer Regulatory Affairs, who has
21 jurisdiction over rooming houses.

22 Q When you say you were called in to assist
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1 A Then they said that they had received
2 some calls from the OAG indicating that --
3 complaints that they're a community-based facility.

4 Q Community-based facility?

5 A Um-hmm, a residential facility.

6 Q A CRF. And that came from the Office of
7 Inspector General?

8 A From what we were told from DCRA.

9 Q Did you have any contact with the Office
10 of Inspector General?

11 A No. Office of Attorney General.

12 Q Office of Attorney General. Sorry.

13 A Sorry.

14 Q So what did you do, your agency, when you
15 got this request for help or assistance? This was
16 brought to your attention, I guess, by Mr. Carter?

17 A Well, it was brought to our attention. I
18 talked with my administrator, Dr. Woldu, as to if he
19 wanted us to -- they wanted our assistance and to
20 see if we were -- if he was okay for us to go with
21 DCRA. He agreed based on the previous investigation
22 that we had conducted at 56th Place involving a

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1 death.

2 So we went out with the fire department.

3 **Q When you say we, who went out?**

4 A I'm sorry. We went out with DCRA.

5 **Q When you say we went out, who went out?**

6 A Oh, I'm sorry. Roland Follet and Michael
7 Walker went out with two of the DCRA investigators;
8 Kevin Meredith, and I don't remember the second
9 gentleman.

10 **Q Do you recall about when this occurred?**

11 A I don't recall. I have to look at my
12 notes.

13 **Q Do you have notes you can use?**

14 A I do.

15 **Q Do you want to do that?**

16 A Sure. We got the request January 30th,
17 2013, and they went out on the 31st.

18 **Q The next day. And what happened as a
19 result of them going out there?**

20 A They determined that the facility was
21 operating beyond the scope of a rooming house.

22 **Q Now, what's the difference -- you say the**
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1 MS. CHHE: Objection to form. You can
2 answer.

3 THE WITNESS: The difference between a
4 rooming house and a CRF is that in a rooming house,
5 they are independent, in that they can provide and
6 care for themselves. And in a CRF they need
7 assistance with activities of daily living services
8 that others provide for them.

9 BY MR. DOUMAR:

10 **Q Is there always a bright line between**
11 **independent living and the person who needs**
12 **assistance with activities of daily living, or is it**
13 **a continuum?**

14 A Well, if someone was living in a rooming
15 house and they were not safe in a rooming house
16 because they could not live alone and take care of
17 themselves and need assistance, that's one thing.

18 And then if they are living in a facility
19 in which services are being provided for them,
20 because they can't live alone, is another.

21 **Q If someone gets some part-time**
22 **assistance, is that sufficient, in your mind, to**

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1 first set of investigators from 2010 determined that
2 the facilities were operating properly as rooming
3 houses. Is that because people were effectively
4 living independently there, as best they could
5 determine, or is that not the test for a rooming
6 house versus a CRF?

7 A No. The first -- Mr. Jude Jules that
8 went out to 56th Place could not get in, and all his
9 information was determined from, like you said, from
10 the written documents and from his interview with
11 the owner.

12 **Q Well, then, somebody has gotten into 5033**
13 **North Capitol and 4910 First Street, as we saw?**

14 A Um-hmm.

15 MS. CHHE: Objection to form.

16 BY MR. DOUMAR:

17 **Q As you've noted from 2010, there were**
18 **three reports and so even the people who got into**
19 **other facilities determined they were rooming**
20 **houses. That prefaces my question. What is the**
21 **difference between a rooming house and a CRF? Where**
22 **is that line drawn.**

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1 push them into a status where they're a CRF as
2 opposed to a rooming house? Say if it was five
3 people living in a rooming house and one of them got
4 part-time assistance, would that still qualify as a
5 rooming house?

6 MS. CHHE: Objection to form.

7 THE WITNESS: Part-time assistance
8 meaning if they were living in a rooming house and
9 needed like home care assistance?

10 BY MR. DOUMAR:

11 **Q Well, somebody would come in a few hours**
12 **a day to check on them, that was the kind of home**
13 **care assistance.**

14 A That's fine.

15 **Q That would still be a rooming house?**

16 A Um-hmm.

17 **Q Or if they put their pills in the weekly**
18 **box or something like that, would that still be**
19 **someone who is qualified to live in a rooming house?**

20 A If who is doing that?

21 **Q If they have a home health aide come in**
22 **once a week and do that.**

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1 A Yes. Home health can come into a private
2 home and provide care, but they can't put pills in a
3 container.

4 Q Who can't put pills in a container?

5 A A home health aide.

6 Q Can certain kinds of home health aides do
7 that?

8 A No, sir.

9 Q Is that true just in DC or everywhere?

10 A I know DC you can't. You have to be
11 licensed to provide medication administration or a
12 nurse.

13 Q Well, if someone had a license to provide
14 medication administration --

15 A They don't have that yet.

16 Q They don't have that yet?

17 A Not yet, not for -- they have it for
18 group homes with people with intellectual
19 disabilities, but that's where the line is drawn.

20 Q Group homes for people with intellectual
21 disabilities is in effect a CRF always; is that
22 correct?

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1 can't come in and put pills in a box -- could a
2 registered nurse come in once a week and put pills
3 in a box for somebody?

4 A Yes.

5 Q And that still wouldn't convert the house
6 into a CRF, necessarily?

7 A No.

8 Q Back on Exhibit 2, which were these three
9 reports from 2010. You had mentioned, I think, that
10 Mr. Jules did not have access to the houses or
11 inside; is that correct?

12 A I don't believe so. I don't think he --
13 he based his determination according to the report,
14 the interview -- I'm sorry -- the interview with the
15 owner and the written evidence. However, it looks
16 like he may have gotten into the foyer there because
17 he observed certain things from afar.

18 Q If you look, for example, on the first
19 page of his report, he does say that, no evidence --
20 in the third bullet point -- no evidence of any type
21 of license is visible in the common rooms of either
22 223 or 225.

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1 A Say it again.

2 Q Is a group home for -- you called it a
3 group home for people that --

4 A It could be an ICF, MR, or CRF.

5 Q When you said -- I meant to follow-up.
6 You said there was a time you investigated at some
7 point a death at a facility at one of the Senior
8 Dwelling --

9 A I didn't investigate a death. I went
10 with the fire department regarding a death.

11 Q When did that happen, do you recall?

12 A It happened -- let me retract that. We
13 investigated the home care aide's involvement in the
14 death of someone that lived at 56th Place.

15 Q When did that happen?

16 A I'll check my notes. July 17, 2012.

17 Q Do you recall the name of that person?

18 A Zimmerman is the last name.

19 Q Let me ask you a few more follow-up
20 questions about rooming houses versus CRFs again,
21 and I may have used layman's terms. I want to make
22 sure I'm careful. When I said home health aides

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1 A Right.

2 Q So he must have gotten access to the
3 common rooms?

4 A Yes.

5 Q And he notes that there are nurses on the
6 staffing schedule, so it appears that medication
7 assistance is being provided or administration,
8 correct?

9 A Yes.

10 Q And that by itself, as you note, doesn't
11 disqualify a house from being a rooming home,
12 correct?

13 A What, on the schedule?

14 Q That nurses are on the schedule so that
15 medication is --

16 A Well, it's -- rooming houses are like
17 apartments. It's just one room. So if you go into
18 a common area and you see nurses, it would lead one
19 to think some things, because usually, as a private
20 matter in your own home, you wouldn't have a sign-in
21 type thing saying, you know --

22 Q Well, if there are multiple people in a

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1 house, you might want to know who is visiting. Is
2 it common for people to --

3 A Why would you as a private owner, a
4 private tenant -- other people shouldn't know who my
5 guests are in my home.

6 Q Some rooming houses have rules for the
7 safety of all residents that they have to -- the
8 residents have to follow, correct?

9 A I'm just saying that it's one of the
10 clues that something may be going on other than a
11 rooming house. I mean, if you put all those things
12 together.

13 Q Mr. Jules didn't conclude based on his
14 review that 223 and 225 were rooming houses at that
15 time, did he? Well, he didn't conclude that they
16 were CRFs at that time, did he?

17 A No.

18 Q His conclusion was the facility appeared
19 to be functioning as a rooming house based on the
20 written evidence that was provided and based on the
21 information obtained from the owner, as you noted;
22 is that correct?

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1 They were concerned because they found an
2 individual -- they got called about an individual
3 who they transported to the emergency room that was
4 in -- living in a room that the temperature was
5 exceedingly hot. They indicated above 90 degrees in
6 there. It was in an attic room.

7 The resident was found with feces all
8 over him along with vomit and food, as well as very
9 thin, and they were very concerned that he was
10 neglected, although he had a home health aide who
11 made the phone call to them. They were concerned
12 that he was being neglected.

13 Q Was there some conclusion that resulted
14 from this?

15 A Yes.

16 Q What was that?

17 A We did find that the home health aide was
18 neglectful in her care of Mr. Zimmerman, and we
19 cited the provider, the home health.

20 Q And who was the provider?

21 A Premier Home Health.

22 MS. CHHE: I'm just going to talk for a

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1 A He said that it appeared to be
2 functioning as a rooming house based on the written
3 evidence provided and based on some of the
4 information obtained from the owner, um-hmm.

5 Q If he had seen any contrary evidence in
6 his review, he likely would have noted that in his
7 report?

8 MS. CHHE: Objection. Calls for
9 speculation. You can answer.

10 THE WITNESS: Yes.

11 BY MR. DOUMAR:

12 Q We talked about Mr. Zimmerman. What were
13 the circumstances of his passing?

14 A I don't know the circumstances of his
15 passing. I know the circumstances of why we got
16 involved and why he was taken to the hospital.

17 Q What were those circumstances?

18 A We got a call -- actually, got a call and
19 a visit from the fire department asking us if we
20 licensed the group home located at 56th Place and
21 what -- because it was their understanding it was a
22 group home.

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1 second. Because Mr. Zimmerman is a patient of the
2 home health company we believe his information would
3 be subject to confidentiality protection under the
4 code.

5 So I what would ask is that for the
6 remainder of the deposition we will refer to him as
7 Resident 1 instead.

8 MR. DOUMAR: Can we say Mr. Z so I
9 don't -- that's too close.

10 MS. CHHE: Because there is an address
11 and then there is one Z. I think we can probably
12 identify who the individual is.

13 MR. DOUMAR: Well, I don't mind keeping
14 the information confidential. I just don't want to
15 get confused. I will try to do him as Resident 1,
16 but if we end up with Residents 2, 3, and 4 and --

17 MS. CHHE: Well, for now, let's stick to
18 Mr. Z.

19 MR. DOUMAR: Mr. Z would make it easier.

20 MS. CHHE: And I will ask the Court
21 Reporter to have the name reflected as Mr. Z
22 throughout deposition when it's written up. I'm

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1 sorry.

2 MR. DOUMAR: No problem.

3 BY MR. DOUMAR:

4 Q Since we were working off another memo
5 briefly, I'm not sure what it was, but I'm going
6 to -- I have an idea, so I'm going to mark this next
7 document as Exhibit 3 and have you identify that for
8 the record.

9 (Whereupon, Deposition
10 Exhibit Number 3 was marked
11 for Identification.)

12 BY MR. DOUMAR:

13 Q Do you recognize this document?

14 A Yes, sir.

15 Q And is this the document, in fact, you
16 were sort of looking at previously from your notes?

17 A Yes.

18 Q What is it?

19 A It's an investigative report.

20 Q This is quite a lengthy report compared
21 to the earlier ones that we saw.

22 A Yes.

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1 correct?

2 A I don't understand the --

3 Q Well, I'm just trying to think of the
4 scope of these kinds of facilities out there. If I
5 wanted to just help take care of an elderly person
6 who was not able to take care of themselves --
7 somebody did this for my uncle. He just ended up
8 living in somebody's house who basically took care
9 of him for money every month, and that, presumably,
10 is not a licensed activity, but it occurs just
11 regularly in the District and in other
12 jurisdictions, correct?

13 MS. CHHE: Objection to form. You can
14 answer.

15 THE WITNESS: I don't know what happens
16 in other jurisdictions, but if you are operating --
17 if you are taking care of someone for money and
18 you're holding yourself out as an assisted-living or
19 a CRF or, you know, you are operating as an
20 unlicensed entity --

21 BY MR. DOUMAR:

22 Q Right. And you are saying you would

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1 Q What are your procedures for
2 investigating a situation like this, where you think
3 there may be issues with respect to the operation of
4 a rooming house that crossed the line to a CRF?

5 A Well, this is the first one. We do
6 investigate unlicensed activity when we feel that
7 individuals are at risk.

8 Q If individuals aren't at risk, you
9 wouldn't normally go out of your way to investigate
10 unlicensed activity?

11 A Not in this manner. We would refer it.

12 Q You would refer it to who?

13 A To whatever jurisdiction that we feel it
14 needs to be licensed --

15 Q So this is kind of the only situation
16 where you ended up investigating a rooming house
17 like this?

18 A A rooming house, yes.

19 Q And, presumably -- I know from family
20 experience, an elderly relative just ends up living
21 in a caregiver's house. And that happens and people
22 may or may not be licensed sometimes; is that

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1 investigate those only if you think there's a safety
2 risk, generally?

3 A No. I would investigate that. We have
4 done that if --

5 Q What if the person comes in and says,
6 well, I wasn't taking care of him; I was just
7 providing him a room?

8 A And you were holding yourself out as a --

9 Q What if you are just holding yourself out
10 as providing a room to this person?

11 MS. CHHE: Objection to form.

12 BY MR. DOUMAR:

13 Q Or renting a room?

14 MS. CHHE: Same objection.

15 THE WITNESS: It depends on who was
16 making the complaint and the nature of the
17 complaint.

18 BY MR. DOUMAR:

19 Q And the genesis for this lengthy
20 report -- was that the Mr. Z situation or was it
21 another complaint or something different?

22 A With this one?

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- 1 Q Yes, ma'am.
- 2 A This one was based on DCRA asking us to
- 3 assist with their many complaints they had.
- 4 Q When you say their many complaints, do
- 5 you know what their many complaints were?
- 6 A No.
- 7 Q That was just the e-mail from Mr. Carter?
- 8 A Yes.
- 9 Q How many staff got involved in this
- 10 process of this investigation?
- 11 A From my staff, from my office?
- 12 Q Yes, let's just say in your office.
- 13 A Just Mr. Walker and Mr. Follott.
- 14 Q Do you have a standard procedure for
- 15 entering homes or houses like this?
- 16 A Yes.
- 17 Q What are those procedures?
- 18 A For anything that we are not licensed, we
- 19 have to get permission of the person that lives
- 20 there to allow us in.
- 21 Q Did you get permission in this case?
- 22 A Every one that we went in, yes, we did.

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- 1 And when I went in, it was Ms. Mercy who
- 2 gave me permission to come in. She allowed us in.
- 3 Q Do you know who Ms. Mercy was?
- 4 A She said she was the sister of the owner
- 5 and the night caretaker of the home.
- 6 Q Do you know who the owner is?
- 7 A It's Ms. Ogbenna.
- 8 Q Okay. Did Ms. Ogbenna ever give you
- 9 permission to come into her houses?
- 10 A No, but we always informed her that we
- 11 were there. Well, I informed her when I was there
- 12 both times.
- 13 Q And the two times you were there were
- 14 when again?
- 15 A I went with the fire department.
- 16 Q For Mr. Z?
- 17 A For Mr. Z, and then I went another
- 18 time -- let's see. It was a recent one. I don't
- 19 recall the exact date, but --
- 20 Q What happened when you went out there a
- 21 second time? How did you go out there?
- 22 A We went out stemming from this

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- 1 We got permission to go in.
- 2 Q Do you know if the police were ever
- 3 called because of the various staffers that had gone
- 4 into the Senior Dwelling residence?
- 5 A The police was called, not that I know
- 6 of.
- 7 Q Who did you get permission from to go
- 8 into --
- 9 A When, I went out there, I got permission
- 10 from Ms. Murphy -- Mercy. I don't know her last
- 11 name. She allowed us in. That was when I was doing
- 12 the investigation for the home health agency.
- 13 Q In connection with Mr. Z?
- 14 A No.
- 15 Q That was something separate?
- 16 A That was different, yes. For Mr. Z, I
- 17 don't recall -- I think that the fire department
- 18 doesn't have -- I went with them. They don't have
- 19 to have permission. They have authority to go in.
- 20 With Mr. Carter -- I mean Mr. Follott and Mr.
- 21 Walker, I don't know who gave them permission. It
- 22 must have been Ms. Mercy.

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- 1 investigation with the 2013 investigation. We
- 2 got -- I'm sorry. I remember now. We got a call
- 3 from a lady who indicated that her brother had
- 4 passed away at that location. And he was found dead
- 5 in his room after being missing for four days.
- 6 Based on that, she indicated that he was
- 7 supposed to have been provided care by home care
- 8 aides at that time. So she asked us -- wanted to
- 9 file a complaint with our office for neglect. We
- 10 indicated that -- she was under the impression --
- 11 she was led to believe from Ms. Ogbenna that it was
- 12 an assisted-living.
- 13 I informed her that it wasn't assisted
- 14 living, that they were licensed as a rooming house,
- 15 but she indicated that a home health aide was
- 16 supposed to be providing care for her brother.
- 17 Based on that complaint, along with the
- 18 complaint from 2013 and the complaint regarding
- 19 Resident 1's neglect, we decided as an agency to go
- 20 out to investigate the home health agencies that
- 21 were providing care to the residents located there.
- 22 Q We will call this person Resident 2 who

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1 passed away.

2 A Yes.

3 Q Did you find that Resident 2 had a home
4 health agency assigned to him?

5 A No.

6 Q Or was he just living as a roomer at the
7 house, supposedly?

8 A According to our investigation, he was
9 living as a roomer. However, he was placed there
10 under the assumption that he was being provided --
11 was to be provided home care services.

12 Q Who placed him there?

13 A Ms. Ogbenna went to the nursing home in
14 Maryland to solicit his placement.

15 Q Did you talk to somebody at the nursing
16 home?

17 A I did.

18 Q Who did you talk to?

19 A I talked with the nurse there and the
20 social worker.

21 Q Do you recall their names?

22 A I don't recall their names.

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1 they were no longer. They used to be a CRF. They
2 need to take them off their CRF list.

3 Q Do you recall who you spoke to there?

4 A No, I don't recall.

5 Q Was that a call that they initiated to
6 you?

7 A They initiated to me, yes. Based on the
8 last investigation I did regarding Resident 2, I
9 contacted the Veterans Administration because it was
10 indicated in the records from either -- T&N that
11 some of the residents there were provided care by
12 Veterans -- or placed by Veterans Administration.

13 Q When you contacted the VA, what did you
14 say?

15 A I contacted the VA to see -- at that time
16 we wanted the individuals to be placed elsewhere due
17 to their health services that were not being
18 provided appropriately. We asked them if they could
19 place them elsewhere.

20 And in conversations with Veterans
21 Administration, we found out that Ms. Ogbenna had
22 solicited services from them as a CRF.

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1 Q Which nursing home was that?

2 A I don't recall.

3 Q How do you know Ms. Ogbenna went to a
4 nursing home to solicit his --

5 A They indicated to me.

6 Q Had they placed other people with
7 Ms. Ogbenna?

8 A I don't know.

9 Q Or at Senior Dwelling? Aside from
10 talking to the nurse and the social worker at that
11 agency, did you ever talk to any other nursing
12 homes, hospitals, or other facilities that might
13 have placed people with Ms. Ogbenna?

14 A Yes.

15 Q Who else did you talk to?

16 A I got a call from Deanwood. It used to
17 be called Nannie-Helen -- Nannie-Helen Place, got a
18 call from their social services. This was in maybe
19 2010 or '11, indicating that they had placed an
20 individual -- that they were under the impression
21 that Blessed Home and Senior Dwelling was a CRF.

22 So I talked to them and indicated that

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1 Q Who told you that?

2 A The social worker there.

3 Q Do you recall if that's what --

4 A I don't recall her name. I informed them
5 that Senior Dwelling was not assisted living and a
6 community placement or an independent living
7 residential facility. It was a rooming house.

8 Q Do you recall what they said, if
9 anything?

10 A They were shocked. They did not know.

11 Q But you don't recall the name of this
12 person you spoke to?

13 A No, but I can find out the name.

14 Q You think you can find out?

15 A Yeah. I believe she was the head of
16 social services, but I probably can find the name.

17 Q If you can do that -- I think it's
18 probably responsive to the discovery request -- but
19 I would appreciate you letting your lawyer know.
20 Did you talk to any other third parties regarding
21 Senior Dwelling?

22 A I think it was just Veterans -- you mean

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1 outside the government?

2 **Q Outside the government, right.**

3 A No.

4 **Q You mentioned this Deanwood place where**
5 **you talked to a social worker. Did you also tell**
6 **them that they should place their residents**
7 **elsewhere and not at Senior Dwelling?**

8 A No. I told them they needed to take
9 Senior Dwelling off their CRF list because they are
10 not licensed.

11 **Q Aside from Deanwood and the VA, did you**
12 **talk to any other third parties about --**

13 A Not that I can recall.

14 **Q Do you know if anyone else in your office**
15 **reported to you that they talked to other third**
16 **parties --**

17 A Not that I can't recall, no.

18 **Q -- about Senior Dwelling?**

19 A No.

20 **Q Each of the two times you were at Senior**
21 **Dwelling -- it sounds like you were there twice**
22 **total; is that correct?**

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1 A Well, I said for unlicensed facilities,
2 but for home care, they are licensed by us. So we
3 have the right to go in to provide the oversight of
4 the home health aides to ensure that they are
5 providing proper care to the patients, as long as
6 the patients are willing to talk with us.

7 And that was one of the things we always
8 did, was ask could we talk -- could we interview
9 you.

10 **Q So that does raise the issue. Exhibit 3**
11 **does have sort of interviews with patients -- not**
12 **patients -- with residents?**

13 A Um-hmm.

14 **Q And it's saying it's their procedure --**
15 **and I think you just indicated this is the case, but**
16 **I'll have you state it. Is there a procedure for**
17 **talking to residents? Like you said, you can't just**
18 **go in and talk to people in a rooming house. You**
19 **have to --**

20 A What do you mean?

21 **Q Do you have a standard procedure to say,**
22 **can we talk to you or can I get your permission?**

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1 A Yes.

2 **Q Each of the two times did you let**
3 **Ms. Ogbenna know that you were there, or did**
4 **somebody let her know that you were there?**

5 A When I was there the last time, a
6 gentleman was there. I asked the gentleman to call
7 Ms. Ogbenna, and I actually talked with her.

8 **Q What do you recall about that**
9 **conversation?**

10 A With Ms. Ogbenna?

11 **Q Yes, ma'am.**

12 A It was very lengthy. I can't recall
13 everything. We talked about the residents there, we
14 talked about why I was there, we talked about the --
15 who was providing care and then she came over.

16 **Q Why did you say you were there?**

17 A I told her we had the right to be there
18 because we are providing oversight to home care
19 agencies.

20 **Q But didn't you tell me earlier you had no**
21 **right to go into the premises without the owner's**
22 **permission?**

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1 A No. You knock on the door and you
2 identify who you are and say that we have, you
3 know -- either identify the complaint or the
4 allegation and we'd like to talk with you. Can we
5 interview you. That's the standard procedure for
6 interviewing any witness or anyone. And if they say
7 no, we walk away.

8 **Q And your authority to enter the house was**
9 **based on home health aides being in the house?**

10 A Our authority to -- yes, but we still
11 cannot -- if the patient said, I don't want to talk
12 to you or you can't come in, we still cannot -- we
13 have to leave.

14 **Q At your job during this period, who was**
15 **your supervisor? I think you mentioned an**
16 **administrator.**

17 A He's no longer -- my current supervisor?

18 **Q Who was your supervisor --**

19 A At that time?

20 **Q At that time.**

21 A Fesea Woldu.

22 **Q Can you spell that for me?**

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