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**Fwd: Saving our Senior Continuum of Care**

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**Jim Mitrison - El Dorado County** <jim.mitrison@edcgov.us>

Fri, Jun 16, 2017 at 8:14 AM

To: EDC COB &lt;edc.cob@edcgov.us&gt;

Please include at public comment on Item 31 on Tuesday's agenda. Thank you.

Jim Mitrison

Clerk of the Board of Supervisors

County of El Dorado

Ph. 530.621.5390 Main

Ph. 530.621.5592 Direct

Email jim.mitrison@edcgov.us

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From: **John Litwinovich** <johnlit@sbcglobal.net>

Date: Thu, Jun 15, 2017 at 4:59 PM

Subject: Saving our Senior Continuum of Care

To: The BOSONE &lt;bosone@edcgov.us&gt;, The BOSTWO &lt;bostwo@edcgov.us&gt;, The BOSTHREE &lt;bosthree@edcgov.us&gt;, The BOSFOUR &lt;bosfour@edcgov.us&gt;, The BOSFIVE &lt;bosfive@edcgov.us&gt;, Joe Harn &lt;joe.ham@edcgov.us&gt;, Jim Mitrison - El Dorado County &lt;jim.mitrison@edcgov.us&gt;, Donald Ashton &lt;don.ashton@edcgov.us&gt;, "patricia.charles-heathers@edcgov.us" &lt;patricia.charles-heathers@edcgov.us&gt;

Dear Members of the Board,

On June 2 the Chief Administrative Office issued a proposed budget that stated, "The CAO office is recommending the elimination of the Senior Legal Services Program in Community Services....Furthermore, the Chief Administrative Office believes that there are alternatives to providing legal aid to vulnerable populations, and these alternatives should be explored and promoted." Then, on June 14, less than one week prior to this matter being heard, a June 8 memo from the Health and Human Services Agency was made public proposing to contract out services.

Several comments (*in italics*) from the June 8 Health and Human Service Agency memo warrant responses.

*It is important to note that El Dorado County is the only County that provides Senior Legal Services internally....* As I've stated before, the Senior Legal Center provides a high level of important services to our County's elders, and that is why, in a world where each Area Agency on Aging establishes its own priorities, Senior Legal has been supported by El Dorado County Boards and Commissions for decades. If our County is unique in maintaining an excellent Continuum of Care for our seniors, it is a reason to be thankful, not a reason to change.

*Program requirements prevent Senior Legal staff from doing any means testing to determine whether the client has the ability to pay.* Continuing to raise this point suggests a misunderstanding of the nature of the Older Americans Act and the needs of our County's seniors. Our senior services are not welfare programs for which someone forgot to add financial eligibility guidelines. As I've already written, Congress, the State, staff and volunteers all recognize that due to isolation, dementia and a host of other challenges, seniors are vulnerable to neglect and exploitation regardless of income, and perhaps even more so if they have savings.

*County Counsel has advised that due to the attorney/client relationship, I (the Director) am unable to provide oversight and effectively manage this service. Since the senior client holds the privilege, communications between the attorney and the senior client cannot be shared, and I am unable to effectively oversee or hold the attorney accountable for services being provided.* Where to begin? For four decades the Senior Legal attorneys have been effectively managed by non-attorney staff. The Federal Government has not voiced concern. Nor has the State. Nor have local judges. Nor have department administrators. Nor have chief administrative officers. Nor have over 30 members of Boards of Supervisors. Now, suddenly, in a rush to eliminate or farm out a cornerstone of the County's Senior Continuum of Care, this is presented as an insurmountable problem. The memo continues, *Attorneys should not be supervised by non-attorneys. In Hessinger Associates (1994, N.D. California), 171 B.R. 366, the court made it very clear that the attorneys in the case were taking direction from a non-lawyer, and indicated that a third person cannot control the attorney's professional judgement.* How applicable is Hessinger Associates (1994, N.D. California), 171 B.R. 366 to our Senior Legal Program? Here are excerpts from an explanation of this case by the non-profit Court Listener,

171 B.R. 366 (1994)

In re HESSINGER & ASSOCIATES, Attorneys.

Misc. No. 94-102.

United States Bankruptcy Court, N.D. California.

August 9, 1994.

Memorandum of Decision

ALAN JAROSLOVSKY, Bankruptcy Judge.

I. Introduction

Hessinger & Associates is supposedly a law firm. It is in fact an interstate business controlled nationally by Earl Cook and locally by David Hansen, neither of whom are lawyers. Joseph Hessinger is supposedly the owner of the firm. He is in fact the front man for Cook and Hansen.

The business practices of Hessinger & Associates have included gross violations of the California State Bar Rules of Professional Conduct. Hessinger is personally responsible for these violations, as well as allowing Cook and Hansen to control the firm and sharing his fees with them. Because Hessinger is not a member of the State Bar of California, the sorry task of exposing the scheme he calls a law practice and enforcing the Rules of Professional Conduct falls upon the court.[1]...

The evidence has revealed an incredibly ugly and evil enterprise. In the guise of being a law firm, Hessinger & Associates is able to lure debtors into its offices with the sole intent of extracting as much money as possible from them with no concern whatsoever about counseling them. In addition to allowing nonlawyers to run "his" practice and sharing his fees with them, Hessinger has completely abdicated his responsibilities as a lawyer to act ethically and responsibly. As outlined below, he must be sanctioned severely for his conduct.[3]

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If I were determined to discredit the hard working, dedicated, professional staff of the Senior Legal Program, I could hardly think of a better way to do so than by comparing their situation to that of the parties involved in Hessinger Associates. However, staying on task, I would simply point out (as a non-attorney who managed senior legal attorneys for a quarter of a century, to the apparent satisfaction of my Board of Supervisor bosses) that attorneys answer at two levels. As County employees, they are responsible for conducting themselves professionally and in accordance with County rules and policies, and may be held accountable by their managers. If they break County rules, they can be disciplined and fired. As legal professionals, they answer directly to the judges of the Courts. If they are guilty of professional misconduct, they can be disciplined. Note that positions ranging from public guardians to nurses may face similar dual levels of oversight, yet are not in line to be contracted out.

If Senior Legal Services were to be contracted out, the County would have even less control over the conduct of services. Another statement regarding contracting out is, *Any legal issues that arise relative to the services being provided by the attorney would be covered by the attorney's own insurance.* Is this to say that

if the County sets up a program on County property under a County contract and something goes awry, that the County bears no risks? Arguably, risks may be better managed in house than under contract.

*Lastly, due to increasing mandated costs, El Dorado County simply does not have the revenue to maintain all of our discretionary programs at their existing service levels, while continuing to support increasing cost to other programs such as senior nutrition and senior day care which have a direct nexus to the County's Strategic Plan.* The principal reason that Community Services programs have struggled in recent years has been the very high cost of maintaining an Agency Administration. The level of General Fund support now required reflects, as much as anything, how much has been drawn from the programs to support an extra administrative level. It seems a misguided effort, to draw significant resources out of senior programs to fund an agency level of administration that, in turn, asserts that senior services are lacking in revenues.

Also, though I'll not go into detail here, there seems a very strong nexus between the Senior Legal Program and the County Strategic Plan, which calls for protecting against adverse outcomes among seniors, as well as collaboration, integrated services, public safety, etc.

In that the Senior Legal Program is one of the finest services our County provides for elders, accessed by many, significantly supported by donations, serving our most vulnerable elders, with very dedicated and hard working staff, it seems incredible that it suddenly faces elimination. It does not appear much timely outreach was done by the County to ensure that El Dorado County's tens of thousands of elders and their families were made aware of this proposed action. Was the El Dorado County Commission on Aging fully consulted in advance regarding the proposed elimination of the Senior Legal Program? Was a thorough analysis conducted by Health and Human Services Agency staff on the human and economic impact of eliminating or contracting out a service utilized by thousands of El Dorado County seniors? Did it include the potential costs of attempting to contract for the full level of Senior Legal Services currently being provided? (If so, I would appreciate a copy.)

El Dorado County has perhaps the finest Senior Continuum of Care in California. Eliminating programs, or contracting or farming out services in response to fiscal concerns would mark the beginning of the end of the Continuum by releasing the County, step by step, from its commitment to seniors. I seriously doubt that your Board wants to begin dismantling El Dorado County's Senior Continuum of Care, built over four decades with overwhelming support of Boards, Commissions, advocates, dedicated volunteers and staff. Yet, that is exactly what the proposed action would do.

Our Senior Programs need people who fully understand and appreciate the elders being served, the value of the services, the incredible staff and volunteers, and what is at stake here. In the past, community advocates have been joined by administrative staff in explaining and illustrating the importance of services. The people serving and being served know of its value. If support for our County's Senior Legal Program is not forthcoming from administrative staff, it falls upon you, our elected officials, to make certain that this vital service, and those dedicated people who provide it, continue on. Please find a way.

Thank you.

John Litwinovich