

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA DEPARTMENT OF HUMAN SERVICES,

Plaintiff,

v.

MORSE HEALTHCARE SERVICES, INC. d/b/a FAITH RIDGE LIFE CENTER, MORSE ENTERPRISES, INC. d/b/a KEVINGTON LANE, MANOR OF MALVERN, INC., KEVINGTON LANE, INC., and MARY MORSE-BOLTON,

Defendants.

No. EQCE075708

**MOTION FOR NOTICE TO SHOW CAUSE, AND MOTION FOR ORDER OF CONTEMPT OF COURT, TO DEFENDANT MARY MORSE-BOLTON AND JOHN BOLTON**

**COMES NOW** Plaintiff Iowa Department of Human Services, Iowa Medicaid Enterprise (“Plaintiff” or “the Department”) and, pursuant to Iowa Code chapter 665 (2013), and Iowa R. Civ. P. 1.511, moves this Court to enter a Notice to Show Cause to Defendant Mary Morse-Bolton and John Bolton for Contempt of Court. Upon hearing, Plaintiff further requests that the Court hold Defendant Mary Morse-Bolton and John Bolton in Contempt of Court for willfully violating and/or aiding and abetting the violation of this Court’s Order Dated February 13, 2014. As supported by the contemporaneously filed Affidavit of Rocco Russo, and attached exhibits thereto, Plaintiff states:

1. On December 18, 2013, Plaintiff filed a Petition for Relief Under Iowa Code Section 249A.44 (Supp. 2013) against Mary Morse-Bolton and her four companies,

Morse Healthcare Services, Inc. d/b/a Faith Ridge Life Center, Morse Enterprises, Inc. d/b/a Kevington Lane, Manor of Malvern, Inc., and Kevington Lane, Inc., in the Iowa District Court for Polk County. Mary Morse-Bolton is a resident of Nebraska and owned and operated these companies. Faith Ridge is a 51-bed nursing facility in Malvern, Mills County, Iowa, and Kevington Lane is a 21-bed residential care facility in Sidney, Fremont County, Iowa. Together Faith Ridge and Kevington Lane care for elderly and disabled persons, including Medicaid members. The Department requested expedited relief on its Petition. See Russo Aff. ¶ 2.

2. On January 2, 2014, the Department filed a Motion for Relief under Iowa Code Section 249A.44 and requested an expedited hearing. The relief sought in the Motion was identical to the Petition, namely, the Department sought (1) pursuant to Iowa Code section 249A.44(1), an injunction restraining all defendants from transferring property or otherwise taking action inconsistent with the Department's attempts to recover Medicaid overpayments; (2) pursuant to Iowa Code section 249A.44(3), appointment of a receiver; and (3) pursuant to Iowa Code section 249A.44(5), an order requiring all defendants to fully disclose all assets and liabilities to the Department. At the time, the Department estimated that the defendants may owe the Department more than \$3 million. See Russo Aff. ¶ 3.

3. The Department requested expedited injunctive relief because it was concerned, among other things, that Ms. Morse-Bolton would squander or transfer property that would eventually be required to repay Medicaid overpayments. Some liability extended to Ms. Morse-Bolton personally in light of the Confession of Judgment filed in Fremont

County District Court, Case No. CVCV 024904, on October 28, 2013, in the amount of \$165,315.30. See Russo Aff. ¶ 4.

4. On February 13, 2014, the Court orally granted the relief that the Department sought and a written judgment followed. Ms. Morse-Bolton and her husband, John Bolton, were both present in the courtroom when the Court issued its decision. It was clear that Ms. Morse-Bolton should not transfer her assets or take other action inconsistent with the Department's right to recover Medicaid overpayments and was supposed to make a full disclosure of her personal and corporate assets and liabilities to the Department on or before March 1, 2014. See Russo Aff. ¶ 5.

5. On February 28, 2014, there was a hearing before the Court to decide whether Kevington Lane and Faith Ridge should be wound down. At the hearing, Ms. Morse-Bolton indicated she needed an additional week to comply with the Court's disclosure requirements due to technical difficulties. The Department did not object, and the Court granted Ms. Morse-Bolton until March 8, 2014 to make the required disclosures of her personal and corporate assets. See Russo Aff. ¶ 5.

6. Ms. Morse-Bolton did not make the required disclosures on or before March 8, 2014. On March 10, 2014, however, Ms. Morse-Bolton sent an email to Judge Gunderson and the Department's counsel with several attachments. See Russo Aff. ¶ 6.

7. In her March 10, 2014 disclosure, Ms. Morse-Bolton did not list any real estate. The Department had researched Ms. Morse-Bolton's assets previously and found public records that she had substantial real estate holdings in Cass County, Nebraska, where she was believed to reside. See Russo Aff. ¶ 7.

8. On March 11, 2014, the Department (through counsel) wrote Ms. Morse-Bolton asking her about the apparent discrepancy with respect to her personal real estate holdings. See Russo Aff. ¶ 8.

9. On March 13, 2014, Ms. Morse-Bolton responded to the Department in an email and attachment, in which she stated among other things that, “The information you have is [sic] concerning my property ownership is not current.” Ms. Morse-Bolton also stated “My husband and I were separated last year and the result is that I own no property in either Nebraska or Iowa.” See Russo Aff. ¶ 9.

10. On March 14, 2014, the Department, through counsel, again wrote Ms. Morse-Bolton asking for evidence that her property was transferred before the date of the Court’s Order barring Ms. Morse-Bolton from transferring her assets. See Russo Aff. ¶ 10.

11. On March 18, 2014, Ms. Morse-Bolton responded, “The publically available records you located are not an accurate source of title holder information. There were no assets involved and in each case the mortgage obligations exceeded the value of the property. The obligations/liabilities were transferred to my husband, John Bolton.” See Russo Aff. ¶ 11.

12. On March 25, 2014, the Department again asked Ms. Morse-Bolton for evidence of the transfers and reminded her that any attempt to transfer assets to avoid repayment of Medicaid funds would violate this Court’s Order. See Russo Aff. ¶ 12.

13. On March 28, 2014, the Receiver notified the Department that it had received a confidential tip that Ms. Morse-Bolton had been in the Cass County, Nebraska's Register of Deeds office and transferred her property in violation of this Court's order dated February 13, 2014. See Russo Aff. ¶ 13.

14. The tip was verified. The Cass County, Nebraska's Register of Deeds office provided the Department with three recently recorded documents. They are:

a. A Deed of Trust signed February 27, 2014, by Ms. Morse-Bolton and John Bolton. It was recorded on March 4, 2014. The Deed of Trust concerns Lot 53, Block 15, Buccaneer Bay, Cass County, Nebraska a/k/a 19589 Ridgeway Road, Plattsmouth, Nebraska, and a refers to a \$210,000 note to Mary Morse-Bolton and John Bolton, also dated February 27, 2014.

b. A quit claim deed in which Ms. Morse-Bolton transferred all of her interest in Lot 6, Block 6, Buccaneer Bay, Cass County, Nebraska a/k/a 19412 Spyglass Court, Plattsmouth, Nebraska, to John Bolton, for \$1. Attached was a tax statement listing the value of this property to be \$143,000. It was signed and recorded on March 7, 2014.

c. A quit claim deed in which Ms. Morse-Bolton transferred all her interest in Lot 53, Block 15, Buccaneer Bay, Cass County, Nebraska a/k/a 19589 Ridgeway Road, Plattsmouth, Nebraska, to John Bolton, for \$1. Attached was a tax statement listing the value of this property to be \$268,023. It was signed and recorded on March 7, 2014. See Russo Aff. ¶¶ 14 - 17.

15. Further, on March 4, 2014, a series of "Security Agreements" were recorded in Fremont County, Iowa, and Mills County, Iowa, on Kevington Lane and Faith Ridge real

estate. For example, “Security Agreement—February 13, 2014” purports that, on February 13, 2014 (the day this Court entered its Order) Morse Healthcare Services, Inc. executed a note on Manor of Malvern, Inc. property to John Bolton, which obligates Manor of Malvern, Inc. to pay John Bolton \$15,000 with interest at the rate of 6% per year. Zennith Wilbur, Faith Ridge’s bookkeeper, allegedly notarized the signatures of John Bolton and Mary Morse-Bolton on February 13, 2014. Mary Morse-Bolton and John Bolton were in the courtroom in Des Moines on February 13, 2014, but Zennith Wilbur had indicated after her testimony on February 12, 2014, that she was returning home. See Russo Aff. ¶ 18.

16. The actions of Mary Morse-Bolton are willful and in direct violation of this Court’s February 13, 2014 order, which forbade her from “transferring property or otherwise taking any action inconsistent with the Department’s right to recover overpayments of medical assistance funds from Defendants.” Not only did she transfer property and take actions inconsistent with the Department’s right to recover, she also sought a continuance from this Court to permit her more time to effectuate and/or cover up her contempt. The result is that Ms. Morse-Bolton now holds herself out to the Department to be judgment proof.

17. John Bolton has aided, abetted, or otherwise encouraged Mary Morse-Bolton’s contempt. John Bolton may, therefore, be held liable for contempt, as well, because this Court has subject-matter jurisdiction over him even though he is not a named defendant. See, e.g., Henley v. Iowa Dist. Court for Emmet County, 533 N.W.2d 199, 202 (Iowa 1995) (holding a no-contact order was binding on nonparty who acted in concert with

enjoined boyfriend to conceal his presence in her home from police); Hutcheson v. Iowa Dist. Ct. for Lee Cnty., 480 N.W.2d 260, 264 (Iowa 1992) (“The rule that one not a party in an action in which a court order was issued and who is not named in the order may be held in contempt if he is in privity with the party, or acts in concert with the named party, has been particularly applied where the nonparty was a relative of the named party, the courts apparently being of the opinion that the relationship increased the likelihood that the contemner was aiding and abetting or conspiring with the named party); Dermedy v. Jackson, 147 Iowa 620, 125 N.W. 228 (1910); Silvers v. Traverse, 82 Iowa 52, 47 N.W. 888 (1891).

**WHEREFORE**, Plaintiff requests this Court enter an Order directing Defendant Mary Morse-Bolton and John Bolton to appear before the Court and show cause why they each should not be held in contempt for violating this Court’s Order dated February 13, 2014, and that hearing be had forthwith, and that they be punished for contempt.

Respectfully submitted,

**THOMAS J. MILLER**  
Attorney General of Iowa

/s/ Timothy L. Vavricek

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**TIMOTHY L. VAVRICEK**  
Assistant Attorney General  
Iowa Department of Justice  
1305 E. Walnut St., Second Floor  
Des Moines, IA 50319-0109  
e: [tvavric@dhs.state.ia.us](mailto:tvavric@dhs.state.ia.us)  
t: (515) 281-4055/f: (515) 281-7219

/s/ Amy Licht

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**AMY LICHT**

Assistant Attorney General  
Iowa Department of Justice  
1305 East Walnut Street, 2<sup>nd</sup> floor  
Des Moines, IA 50319-0109  
alicht@dhs.state.ia.us  
t: (515) 281-6774/f: (515) 281-7219  
ATTORNEYS FOR PLAINTIFF