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BY

6 JUSTICE COURT, LAS VEGAS TOWNSHIP
7 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10
11 Plaintiff,

12 vs.

13 DELFINA SAMBAS
14 Defendant.

CASE NO.: OSF08172X
DEPT NO.: 2

AFFIDAVIT OF PROBABLE CAUSE
IN SUPPORT OF CRIMINAL
COMPLAINT AND ISSUANCE OF
SUMMONS

15
16 State of Nevada)
17 County of Clark) ss

18 I, Shaun Bowen do hereby swear under penalty of perjury that the assertions of this
19 Affidavit are true:

- 20 1. That since September, 2001, I have been employed by the Nevada Department of
21 Justice, Office of the Attorney General. I am presently a Sr. Investigator with peace
22 officer status, assigned to the Medicaid Fraud Control Unit (MFCU).
23 2. The MFCU recently completed an investigation concerning offenses of Neglect of an
24 Older Person.
25 3. Based upon the investigation, there is probable cause to believe defendant had the
26 responsibility or obligation to provide care, shelter or services for older persons, D.E.
27 (male, 60 years or older), J.G. (male, 60 years or older) and M.E. (female, 60 years
28 or older). Defendant knowingly failed to provide such care, shelter or services,

1 8. I have reviewed NAC 449.199 concerning Residential Facilities for Groups which
2 states:

3 "...The administer of a residential facility shall ensure that a sufficient
4 number of caregivers are present at the facility to conduct activities and
5 provide care and protective supervision for the residents. There must be
6 at least one caregiver on the premises of the facility if one or more
7 residents are present at the facility..."

8 9. On April 20, 2005, I spoke with Theresa Pedrotti, Executive Secretary for the Board
9 of Examiners for Long-Term Care Administrators (BELTCA). Pedrotti advised
10 defendant was a licensed Residential Facility Administrator for another property,
11 6880 Hathaway Drive, Las Vegas, Nevada. Pedrotti also advised that the
12 Administrator license is property specific; that BELTCA had no licenses listed for
13 defendant at 6215 East Owens; and pursuant to NAC 654.181 defendant had 15
14 days to notify BELTCA of an address change or change of facility. Ms. Pedrotti also
15 said NAC 654.250 required defendant to notify BELTCA of being an Administrator of
16 multiple facilities and to obtain a "secondary administrators" license for each
17 additional facility.

18 10. Upon arrival at 6215 East Owens Avenue, resident M.E. allowed me to enter and
19 showed me the facility. At no time did I see any licenses displayed noting the facility
20 to be a licensed Residential Facility for Groups per NAC 449.193. I did not observe
21 any licenses displayed listing a long term administrator assigned to the facility, per
22 NAC 654.190 and NRS 449.095. Nor did I observe the posting of the name of the
23 employee in charge of the facility per NAC 449.194.

24 M.E. showed me identification indicating she was 92 years old. M.E., though
25 ambulatory, appeared somewhat unsteady in her gate and balance and she had
26 difficulty hearing. M.E. stated she used to be a neighbor of defendant and that she
27 now pays defendant \$750.00 for food, meals, rent and some care services.

28 11. I also observed that resident D.E. was unable to communicate with me and was
somewhat non-responsive to my inquiries. D.E. was unable to ambulate on his own
and could not get out of a chair without assistance. There was a file folder on a

1 table next to D.E., and in the file was information indicating D.E. to be 84 years old.
2 12. On 4/20/05, at approximately 4:45 pm, defendant arrived at the facility. She said
3 she had departed at approximately 2:15 pm to take a third elderly resident, J.G. and
4 the facilities care giver, Lolita Pangan to a doctors appointment. Defendant
5 admitted that M.E., D.E. and J.G. are residents of 6215 East Owens Avenue and
6 that defendant is responsible for providing them food, shelter, limited supervision
7 and assistance with their daily living requirements. Defendant said M.E. pays
8 \$750.00 per month and D.E. pays \$1,700.00 per month. Defendant admitted that
9 D.E. and M.E. needed 24 hour a day supervision. Defendant further admitted that
10 though M.E. likes to cook, M.E. needs close supervision while in the kitchen.

11 Defendant told Affiant it slipped her mind that she had left the 92 and 84 year
12 old residents alone. Earlier, defendant had the presence of mind to call M.E. at
13 approximately 4:00 pm for the purpose of checking up on D.E. During that call,
14 defendant learned members of the MFCU were present, and she returned to the
15 facility. Upon arriving at the facility, defendant failed to discuss that a third resident,
16 J.G., also resided at the facility. (J.G. was still at a doctors office). Defendant only
17 admitted that J.G. was a resident after Affiant confronted her on this topic.
18 Defendant also stated J.G.'s care includes taking him to doctors appointments two
19 times a week.

20 13. On April 21, 2005, I reviewed several Clark County District Court documents
21 concerning Sambas. Two of those documents are as follows:

22 A) Case No. A476475, Department No. X, Date stamped: 12/24/03, Titled:
23 Stipulation and Order.

24 This document indicates that during 10/2003, defendant was operating a
25 residential facility for groups containing four residents, without a license. Defendant
26 agreed not to operate an unlicensed facility for groups in the future and consented to
27 a permanent injunction. Defendant agreed to a \$1,000.00 judgment being entered
28 against her. The settlement agreement would not be construed as prohibiting any

1 criminal or civil actions or other claims for relief available to any party other than the
2 State of Nevada, Department of Human Resources, Health Division.

3 An order confirming the injunction against maintaining and operating a residential
4 facility for groups without a license; and authorizing a \$1,000.00 judgment against
5 defendant was signed on 12/22/2003.

6 B) Case No. A494639, Department No. XI, Date stamped: 12/7/04, Titled:
7 Stipulation and Order.

8 This document indicates that during 08/2004, defendant was operating a
9 residential facility for groups containing 3 residents when she was only licensed to
10 care for 2 residents. Defendant agreed not to operate an unlicensed facility for
11 groups in the future and consented to a permanent injunction. Defendant agreed to
12 a \$5,000.00 judgment being entered against her. The settlement agreement would
13 not be construed as prohibiting any criminal or civil actions or other claims for relief
14 available to any party other than the State of Nevada, Department of Human
15 Resources, Health Division.

16 An order confirming the injunction against maintaining and operating a residential
17 facility for groups without a license; and authorizing a \$5,000.00 judgment against
18 defendant was signed on 12/07/2004.

19 **14. In summary of the above:**

20 Defendant was the responsible party to provide services, including shelter, in a
21 manner necessary to maintain the physical or mental health of older persons (M.E.
22 and D.E.). (See NRS 200.5092(4)). By abandoning residents and neglecting to
23 obtain an appropriate care giver in her absence, defendant permitted or allowed the
24 residents to be placed in a situation where they may suffer physical pain or mental
25 suffering as a result of the neglectful abandonment. (See NRS 200.5099(2)).

26 Defendant was aware of her responsibilities to operate within the requirements
27 of the Nevada Administrative Code and had two prior court orders enjoining her
28 from operating an unlicensed facility.

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Based upon the foregoing, there is probable cause to believe that Delfina Sambas did commit the crime of Neglect of an Older Person, a gross misdemeanor violation of NRS 200.5099(2) and 200.5092, two counts.

WHEREFORE, your Affiant requests that a Summons be issued for Delfina Sambas, and that defendant be dealt with according to the law.

Dated this 5th day of May, 2005.

BRIAN SANDOVAL
Attorney General

By: *Shaun Bowen*
Shaun Bowen
Senior Investigator

Subscribed and sworn to before
me this 5 day of May, 2005.

Shannon Murrelo
Notary Public



Submitted by:

BRIAN SANDOVAL
Attorney General

By: *Mark Kemberling*
Mark Kemberling
Sr. Deputy // NV Bar No. 5388
Medicaid Fraud Control Unit
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