

State of California - Department of Corporations

1 WAYNE STRUMPFER (SBN 160080)
Acting Corporations Commissioner
2 ALAN S. WEINGER (SBN 86717)
Acting Deputy Commissioner
3 JAMES K. OPENSHAW (SBN 137667)
Senior Corporations Counsel
1515 K Street, Suite 200
4 Sacramento, California 95814
Telephone: (916) 322-6998

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LEGAL PROCESS #3

5 Attorneys for the People of the State of California

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SACRAMENTO
9

10 THE PEOPLE OF THE STATE OF
CALIFORNIA, by and through the
11 COMMISSIONER OF CORPORATIONS,
12 Plaintiff,

Case No.:
CSAS05800

COMPLAINT FOR TEMPORARY
RESTRAINING ORDER; PRELIMINARY
INJUNCTION; PERMANENT INJUNCTION;
CIVIL PENALTIES; AND ANCILLARY
RELIEF

13 vs.

14 TROPICAL VILLAGE, INC., a Florida
Corporation; CLARITY DEVELOPMENT
15 CORPORATION, a Florida Corporation;
SENIOR ADULT LIVING, INC., a Florida
16 Corporation; PATRICK B. KIRKLAND,
individually and doing business as Tropical
17 Village, Inc., Clarity Development Corporation,
and Senior Adult Living, Inc.; ANA
18 RODRIGUEZ, individually; LAURA M.
WADE, individually; VAN JACOBS; and
19 DOES 1-20, inclusive.

(Corporations Code §§ 25110, 25210, 25230,
25401, and 25535)

20 Defendants.
21

22 Wayne Strumpfer, Acting Commissioner of Corporations for the State of California, acting to
23 protect the public from the unlawful and fraudulent sale of unqualified securities and unlicensed
24 activity by a natural person involved in the securities and escrow businesses, brings this action in the
25 public interest in the name of the People of the State of California. The People of the State of
26 California allege as follows:

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28 ///

VENUE AND JURISDICTION

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2 1. Plaintiff, by this action and pursuant to Corporations Code §25530, seeks to enjoin
3 defendants: 1) from effecting transactions in securities in this state without having secured from the
4 Corporations' Commissioner a certificate authorizing defendants to act in that capacity in violation of
5 Corporations Code §25110; 2) from engaging in the offer and sale of securities in this state without
6 being properly licensed as a broker-dealer in violation of Corporations Code §25210; 3) from
7 engaging in the offer and sale of securities in this state without being properly licensed as an
8 investment adviser in violation of Corporations Code §25230; and 4) from offering and selling
9 unqualified, nonexempt securities by means of misrepresentations of material facts and/or omissions
10 of material facts in violation of Corporations Code §25401. Plaintiff also seeks a permanent
11 injunction, restitution to defrauded investors, disgorgement and civil penalties pursuant to
12 Corporations Code §25535.

13 2. Defendant, TROPICAL VILLAGE, INC. ("TROPICAL VILLAGE"), is a corporation
14 organized in the State of Florida, and is engaged in unlawful activity throughout the State of
15 California and in other states. The transactions, which involved violations of law, hereinafter
16 described, were conducted in various counties in the State of California, including Sacramento
17 County. Plaintiff is informed and believes, and thereon alleges, that TROPICAL VILLAGE, INC.
18 was engaged in activities which resulted in a fraud upon investors with the offer and sale of
19 securities.

20 3. Defendant, CLARITY DEVELOPMENT CORPORATION ("CLARITY"), is and at
21 all times mentioned herein, was a corporation organized in the State of Florida, and is engaged in
22 unlawful activity throughout the State of California and in other states. The transactions, which
23 involved violations of law, hereinafter described, were conducted in various counties in the State of
24 California, including Sacramento County. Plaintiff is informed and believes, and thereon alleges, that
25 CLARITY DEVELOPMENT CORPORATION was engaged in activities which resulted in a fraud
26 upon investors with the offer and sale of securities.

27 4. Defendant, SENIOR ADULT LIVING, INC. ("SENIOR ADULT LIVING"), is and at
28 all times mentioned herein, was a corporation organized in the State of Florida, and is engaged in

1 unlawful activity throughout the State of California and in other states. The transactions, which
2 involved violations of law, hereinafter described, were conducted in various counties in the State of
3 California, including Sacramento County. Plaintiff is informed and believes, and thereon alleges, that
4 SENIOR ADULT LIVING was engaged in activities which resulted in a fraud upon investors with
5 the offer and sale of securities.

6 4. Defendant, PATRICK B. KIRKLAND ("KIRKLAND"), at all times mentioned
7 herein, is a natural person residing in Florida and was the control person and primary operator of
8 defendants, TROPICAL VILLAGE, CLARITY DEVELOPMENT and SENIOR ADULT LIVING
9 engaged in the offer and sale of unqualified non-exempt securities in California and other states.
10 Plaintiff is informed and believes, and thereon alleges, that KIRKLAND was an owner, principal,
11 partner, joint venturer, or authorized agent in many of the various businesses also named as
12 defendants, that were engaged in activities that resulted in a fraud on investors by means of the sale
13 of unqualified non-exempt securities and unlicensed broker-dealer activities.

14 5. Defendant, ANA RODRIGUEZ ("RODRIGUEZ"), at all times mentioned herein, is a
15 natural person residing in Florida and on information and belief, was working along with
16 KIRKLAND, and was an owner, principal, partner, joint venturer, or authorized agent in many of the
17 various businesses also named as defendants, that were engaged in the offer and sale of unqualified
18 non-exempt securities in California and other states. Plaintiff is informed and believes, and thereon
19 alleges, that RODRIGUEZ, working in conjunction with KIRKLAND, was engaged in activities that
20 resulted in a fraud on investors by means of sales of unqualified non-exempt securities and
21 unlicensed broker-dealer activities in violation of the California Corporate Securities Law.

22 6. Defendant, LAURA M. WADE ("WADE"), at all times mentioned herein, is a natural
23 person residing in Florida and on information and belief, was working along with KIRKLAND, and
24 was an owner, principal, partner, joint venturer, or authorized agent in many of the various businesses
25 also named as defendants, that were engaged in the offer and sale of unqualified non-exempt
26 securities in California and other states. Plaintiff is informed and believes, and thereon alleges, that
27 WADE, working in conjunction with KIRKLAND, was engaged in activities that resulted in a fraud
28 on investors by means of sales of unqualified non-exempt securities and unlicensed broker-dealer

1 activities in violation of the California Corporate Securities Law.

2 7. Defendant, VAN JACOBS ("JACOBS"), at all times mentioned herein, is a natural
3 person residing in Florida and on information and belief, was working along with KIRKLAND, and
4 was an owner, principal, partner, joint venturer, or authorized agent in many of the various businesses
5 also named as defendants, that were engaged in the offer and sale of unqualified non-exempt
6 securities in California and other states. Plaintiff is informed and believes, and thereon alleges, that
7 JACOBS, working in conjunction with KIRKLAND, was engaged in activities that resulted in a
8 fraud on investors by means of sales of unqualified non-exempt securities and unlicensed broker-
9 dealer activities in violation of the California Corporate Securities Law.

10 INDIVIDUAL DEFENDANTS

11 8. At all relevant times hereto, PATRICK B. KIRKLAND, individually and doing
12 business as TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and
13 SENIOR ADULT LIVING, INC., engaged in the unlicensed business of effecting transactions in
14 unqualified, nonexempt securities in this state by means of misrepresentations or omissions of
15 material facts, in violation of Corporations Code §§25110, 25210, 25230 and 25401. While
16 unlawfully engaged, KIRKLAND, individually and doing business as TROPICAL VILLAGE, INC.,
17 CLARITY DEVELOPMENT CORPORATION, and SENIOR ADULT LIVING, INC. sold unlawful
18 securities to at least 20 investors, bringing in more than \$2,500,000, without the appropriate license
19 or reliance on an applicable exemption.

20 9. At all relevant times hereto, ANA RODRIGUEZ, individually and doing business as
21 TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and SENIOR
22 ADULT LIVING, INC., engaged in the unlicensed business of effecting transactions in unqualified,
23 nonexempt securities in this state by means of misrepresentations or omissions of material facts, in
24 violation of Corporations Code §§ 25110, 25210, 25230 and 25401. Plaintiff is informed and
25 believes, and thereon alleges that, while unlawfully engaged, RODRIGUEZ, individually and doing
26 business as TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and
27 SENIOR ADULT LIVING, INC., sold unlawful securities to investors, for which she charged and
28 received commissions from KIRKLAND.

1 10. At all relevant times hereto, LAURA M. WADE, individually and doing business as
2 TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and SENIOR
3 ADULT LIVING, INC., engaged in the unlicensed business of effecting transactions in unqualified,
4 nonexempt securities in this state by means of misrepresentations or omissions of material facts, in
5 violation of Corporations Code §§ 25110, 25210, 25230 and 25401. Plaintiff is informed and
6 believes, and thereon alleges that, while unlawfully engaged, WADE, individually and doing
7 business as TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and
8 SENIOR ADULT LIVING, INC., sold more unlawful securities to investors, for which she charged
9 and received commissions from KIRKLAND.

10 11. At all relevant times hereto, VAN JACOBS, individually and doing business as
11 TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and SENIOR
12 ADULT LIVING, INC., engaged in the unlicensed business of effecting transactions in unqualified,
13 nonexempt securities in this state by means of misrepresentations or omissions of material facts, in
14 violation of Corporations Code §§ 25110, 25210, 25230 and 25401. Plaintiff is informed and
15 believes, and thereon alleges that, while unlawfully engaged, JACOBS, individually and doing
16 business as TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, and
17 SENIOR ADULT LIVING, INC., sold more unlawful securities to investors, for which she charged
18 and received commissions from KIRKLAND.

19 12. Plaintiff is informed and believes, and thereon alleges, that all defendants, TROPICAL
20 VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, SENIOR ADULT LIVING,
21 INC., PATRICK B. KIRKLAND, ANA RODRIGUEZ, LAURA B. WADE and VAN JACOBS were
22 at all times mentioned, principals, agents, employers, employees, co-venturers, or co-conspirators,
23 and were acting in their respective capacities in doing the acts complained of, thereby imputing
24 liability to each other and jointly and severally liable for the violations of the Corporate Securities
25 Law as alleged herein.

26 13. Plaintiff alleges upon information and belief that at all times mentioned herein, all
27 defendants, TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, SENIOR
28 ADULT LIVING, INC., PATRICK B. KIRKLAND, ANA RODRIGUEZ, LAURA B. WADE and

1 VAN JACOBS were each alter egos of the other, being concurrently engaged and cooperating with
2 each other in the offer and sale of unqualified, nonexempt securities in the State of California, namely
3 securities in the form of investment contracts under Tropical Village, Clarity Development and
4 Senior Adult Living, to investors in California and, upon belief, other states as well, based on
5 misrepresentations and omissions of material facts that resulted in a fraud on investors. As a result,
6 each defendant should be held jointly and severally liable for the acts and omissions,
7 misrepresentations and fraud, of all other defendants.

8 14. Plaintiff is unaware of the identities of the defendants fictitiously-named as DOES 1
9 through 20, inclusive, and alleges upon information and belief that at all times mentioned herein, that
10 these DOE defendants, along with all other defendants, were each alter egos of the other, being
11 concurrently engaged and cooperating with each other in the offer and sale of unqualified, nonexempt
12 securities in the State of California, namely securities in the form of investment contracts purportedly
13 interests in real estate development projects constructed to provide rental units targeted to senior
14 citizens, to investors in California and, upon information and belief, other states as well, based on
15 misrepresentations and omissions of material facts that resulted in a fraud on investors. As a result,
16 each defendant should be held jointly and severally liable for the acts and omissions,
17 misrepresentations and fraud, of all other defendants. Upon learning of the true identities of those
18 named as DOES 1 through 20, inclusive, plaintiff will amend the complaint as appropriate.

19 FACTS SUPPORTING LIABILITY

20 The Tropical Village Offering.

21 15. During a period of time extending from approximately December, 1999 to the present,
22 Kirkland and Tropical Village, Inc. offered investments by means of general solicitation, including
23 advertisements in publications including Money Magazine, the Wall Street Journal, the Los Angeles
24 Times and the San Francisco Chronicle. The advertisements offered projected returns of 29% to 35%
25 from purchase and rental of so-called "Senior Triplexes" at complexes in Florida, Georgia and Texas,
26 including Pelican Bay Club in Palm Bay, Florida, Summerhill Ventures in Marietta, Georgia, Sunset
27 Bay Club in New Port Richey, Florida, and Harbor Bay Retirement Village in Kissimmee, Florida.

28 16. Prospective investors were told that the purchase price of each senior triplex was

1 \$733,000 in Florida and Georgia and \$795,000 in Texas. Prospective investors were told that for just
2 ten percent of that amount, or \$73,300, they could purchase a senior triplex that would be managed
3 and rented for them by a professional management company. Investors were promised that:

4 The staff will be responsible for advertising, showing potential residents
5 the available bedrooms, and soliciting contractors to repair and maintain the
6 interiors, exteriors, and grounds. Each owner will not be required to be involved
7 in the day-to-day operations of the triplex. The book keeping [sic] will be
8 handled by a bookkeeping company, which will be responsible for collecting rent,
9 paying bills and remitting checks to the investor(s). This is absentee ownership at
10 its best!

11 17. Prospective investors in each of the projects were provided one-page sheets projecting
12 net estimated profit of more than \$2 000 per month or \$24,000 per year from each senior triplex
13 following mortgage loan, rental and management expenses. Prospective investors were promised that
14 they would receive:

15 a monthly report detailing the expenses with his or her triplex with the
16 check for the net fee income for that period. We believe your
17 investigation will lead you to conclude that this is a GREAT
18 OPPORTUNITY!

19 18. The Department of Corporations has not issued a permit or other form of qualification
20 authorizing offer or sale of senior triplex investments by Tropical Village.

21 19. On November 19, 2004, the California Corporations Commissioner issued an
22 administrative order to Kirkland and Tropical Village pursuant to Corporations Code section 25532
23 ordering them to desist and refrain from the offer of senior triplex investments in California. Despite
24 Kirkland's knowledge and receipt of that order, Kirkland and Tropical Village continued and still
25 continue to offer and sell senior triplex investments through Tropical Village to residents of
26 California subsequent to notice of and receipt of the order.

27 The Clarity Development Offending.

28 20. On December 22, 2004, Kirkland caused the formation of a new Florida corporation
called Clarity Development Corporation ("Clarity Development"). Kirkland is listed as the owner
and president of Clarity Development which operates from the same address, and uses the same
phone and fax numbers, as Tropical Village. It maintains a website at
"www.claritydevelopment.net".

1 21. Ana Rodriguez ("Rodriguez") is or was a sales agent for Kirkland and Clarity
2 Development, and/or an officer, manager, or control person.

3 22. Laura Wade ("Wade") is an employee of Kirkland and Clarity Development, and/or an
4 officer, manager, or control person.

5 23. Subsequent to the formation of Clarity Development, Kirkland, Rodriguez, Wade and
6 Clarity Development offered and continue to offer senior triplex investments to residents of
7 California in the same projects (including Pelican Bay, Summerhill and Sunset Bay) and on
8 substantially the same terms as previously offered through and by Tropical Village. Kirkland,
9 Rodriguez, Wade and Clarity Development are also continued to offer senior triplex investments to
10 residents of California for a new project called Turtle Cove in Lakeland, Florida.

11 24. Kirkland, Rodriguez, Wade and Clarity Development offered and continue to offer
12 senior triplex investments of Clarity Development by means of advertisements in publications
13 including Smart Money Magazine and the Los Angeles Times.

14 25. The Department of Corporations has not issued a permit or other form of qualification
15 authorizing offer or sale of senior triplex investments by Clarity Development.

16 26. Kirkland, Rodriguez, Wade, Tropical Village and Clarity Development offered and
17 sold, and continue to offer and sell senior triplex investments by means of communications which
18 misrepresent or omit material facts.

19 27. Kirkland, Rodriguez, Wade, Tropical Village and Clarity Development failed and
20 continue to fail to inform prospective purchasers that income projections made to prior investors have
21 repeatedly turned out to be false because actual occupancy rates and rental rates of the senior triplex
22 facilities have turned out to be much lower than represented, and that the real rates have turned out to
23 be so low that triplex investments yield no profits and instead burden investors with monthly
24 obligations to make payments to cover the shortfall between rental income and triplex loan, rental
25 and management expenses.

26 28. Despite their knowledge of these facts, Kirkland, Rodriguez, Wade, Tropical Village
27 and Clarity Development continued to make the same or similar false inflated projections to current
28 prospective investors even though they know that the projections are false.

1 29. Kirkland, Rodriguez, Wade, Tropical Village and Clarity Development assured and
2 continue to assure prospective investors that they will be able to obtain a refund of their triplex
3 investments in the event that they choose to withdraw after visiting a triplex site or if they fail to
4 qualify for the necessary loans. Kirkland, Rodriguez, Tropical Village and Clarity Development fail
5 to inform prospective investors that when past investors attempted to obtain refunds of their deposits
6 under such circumstances Kirkland failed and refused to make the refunds.

7 30. Kirkland, Rodriguez, Wade, Tropical Village and Clarity Development failed to
8 inform and continue to fail to inform prospective investors of prior lawsuits against Kirkland and
9 Tropical Village. Those lawsuits include an action titled Angel et al. v. Tropical Village, Inc., etc. et
10 al., Civil Action No. 6:04-CV-1669-0RC-19KR, that was filed on November 16, 2004 in federal
11 district court in Orlando, Florida and is currently pending against defendants including Kirkland and
12 Tropical Village. The lawsuit was filed on behalf of 61 plaintiffs who invested in triplexes in the
13 Harbor Bay Retirement Village and Sunset Bay Club. The plaintiffs' complaint sets forth causes of
14 action for federal and state securities law violations, fraud, and civil conspiracy.

15 31. Kirkland, Rodriguez, Wade, Tropical Village and Clarity Development failed to
16 inform and continue to fail to inform prospective investors of a prior lawsuit brought against Kirkland
17 by Clifteen Yarbrough, Civil Action No. E-49753 in Fulton County, Georgia. That lawsuit, which
18 was the subject of a published decision reported at Yarbrough v. Kirkland, 249 Ga.App. 523 (2001),
19 resulted in a jury verdict filed against Kirkland on September 24, 2003 in the amount of \$1.76 million
20 for fraud, Georgia Racketeer Influenced & Corrupt Organization Act violations (O.C.G.A. § 16-14-1
21 et seq.) and punitive damages. The lawsuit involved claims that Kirkland, acting through his
22 company, The Baxter Group, knowingly employed material misrepresentations to induce Clifteen
23 Yarbrough make an investment in 1995 in a single-family house which Kirkland represented would
24 generate profits for her when managed by his company as a boarding house. In fact, the property's
25 zoning did not allow it to be used as a boarding house.

26 32. Patrick B. Kirkland, Ara Rodriguez, Laura Wade, Tropical Village, Inc. and Clarity
27 Development, Inc. have offered and are currently offering securities in the form of senior triplex
28 investment contracts by means of misrepresentations of material fact and by means of

1 communications which have omitted and omit material facts necessary in order to make the
2 statements made, in the light of the circumstances under which they were made, not misleading, in
3 violation of section 25401 of the Corporate Securities Law of 1968, by misrepresenting the amount of
4 income investors can reasonably expect to receive from senior triplex investments, failing to disclose
5 that their income projections are inconsistent with past and current investment performance,
6 misrepresented that investors will be entitled to refunds under circumstances and failed to disclose
7 that refunds have been denied in the past to investors in similar situations. Defendants concealed
8 relevant and pending past lawsuits against Patrick B. Kirkland and Tropical Village, Inc. and a past
9 judgment against Patrick B. Kirkland.

10 33. Despite the desist-and-refrain orders issued on November 19, 2004 and June 6, 2005,
11 Kirkland continued to solicit California residents through Clarity Development Corporation to
12 purchase senior triplex investments.

13 The Senior Adult Living Offering

14 34. Senior Adult Living, Inc. is an active Florida corporation that was formed on October
15 14, 2005. Patrick Boyd Kirkland ("Kirkland") is listed as the president and owner of Senior Adult
16 Living, Inc.

17 35. From approximately December of 1999 to the present, Kirkland was offering
18 investments by means of general solicitation, including advertisements in Money Magazine, Smart
19 Money Magazine, the Wall Street Journal, the Los Angeles Times and the San Francisco Chronicle.
20 The advertisements projected returns of 29% to 35% from purchase and rental of so-called "Senior
21 Triplexes" at complexes in Florida, Georgia and Texas, including Pelican Bay Club in Palm Bay,
22 Florida ("Pelican Bay"), Summerhill Ventures in Marietta, Georgia ("Summerhill"), Sunset Bay
23 Club in New Port Richey, Florida ("Sunset Bay"), Harbor Bay Retirement Village in Kissimmee,
24 Florida ("Harbor Bay"), and Turtle Cove in Lakeland, Florida ("Turtle Cove").

25 36. The Department of Corporations has not issued a permit or other form of qualification
26 authorizing the offer or sale of the senior triplex investments in California.

27 37. Plaintiff is informed and believes, and thereon alleges, that Senior Adult Living, Inc.,
28 was created and formed by Kirkland to avoid the administrative orders issued against Tropical

1 Village, Inc. and Clarity Development, as each maintained its office at 4700 Millenia Blvd., Suite
2 340, Orlando, Florida 32839. Kirkland is listed in public records as the president and owner of all
3 three corporations, including Senior Adult Living. On November 19, 2004 and June 6, 2005, the
4 California Corporations Commissioner issued an administrative order to Kirkland and Tropical
5 Village and Clarity Development pursuant to Corporations Code section 25532 ordering them to
6 desist and refrain from the offer of the or triplex investments in California.

7 38. Plaintiff is informed and believes, and thereon alleges, that Kirkland, Tropical Village,
8 Inc. and Clarity Development Corporation, and Senior Adult Living offered the senior triplex
9 investments by mean of misrepresentations and omissions of material fact. The misrepresentations
10 and omissions included:

- 11 (a) Income projections made to prior senior triplex investors had repeatedly turned out to be
12 false;
- 13 (b) Promises to prior senior triplex investors that refunds would be available under
14 circumstances had not been honored;
- 15 (c) Sixty one senior triplex investors had filed suit in federal district court in Florida alleging
16 causes of action for federal and state securities law violations, fraud and civil conspiracy;
17 and
- 18 (d) Kirkland was the subject of a jury verdict for \$1.76 million handed down on September
19 24, 2003 for fraud, Georgia Racketeer Influenced & Corrupt Organization Act violations
20 (O.C.G.A. § 16-14-1 et seq.) and punitive damages

21 39. On August 19, 2005, Van Jacobs sent a letter to a prospective California investor
22 about a company triplex project called Pelican Bay Club, Inc. stating:

23 Due to your past interest in Pelican Bay Club, Inc. in Palm Bay FL., I am
24 forwarding you some current articles about the development, its recent progress, and
25 the Palm Bay area. Clarity does have 2 units in Phase 1 of the project that are
26 available and also 1 in Phase 2. Please contact me if you are interested in receiving
27 more information about this opportunity.
28

1 40. Defendant Van Jacobs is a sales person for Kirkland offering investments in Senior
2 Adult Living, Inc. The November, 2005 issue of Money Magazine contains a quarter-page
3 advertisement in the name of Senior Adult Living, Inc. offering "New Senior Village Triplexes
4 Investment Property." A California resident contacted Senior Adult Living, Inc. at the phone number
5 listed in the advertisement and reached Sales Executive Van Jacobs, who provided the potential
6 investor information about the investments over the phone and sent information including five
7 booklets about the same senior triplex investment properties previously sold by Kirkland through
8 Tropical Village, Inc. and Clarity Development Corporation: Turtle Cove, Summerhill, Isleworth,
9 Sunset Bay and Pelican Bay.

10 41. The sales brochures do not mention, and Jacobs did not inform the investor, that the
11 investments have previously been offered by Tropical Village, Inc. and Clarity Development
12 Corporation or that the Department of Corporations had issued two prior desist-and-refrain orders to
13 halt offers and sales of the investments in California. The sales brochures do not mention, and Jacobs
14 did not inform the investor, of any of the misrepresentations and omissions of material fact that
15 formed the basis for the second desist-and-refrain order. On the contrary, the sales brochures
16 continue to set forth the same unrealistic estimated projected returns that Plaintiff alleges are
17 deliberately inaccurate.

18 42. The sales brochures identify the owner and president of Senior Adult Living, Inc. as
19 "Boyd Kirkland" rather than as "Patrick Kirkland." Jacobs failed to identify Patrick Kirkland as the
20 owner and president of Senior Adult Living, Inc.

21 43. The sales brochures include purported copies of a newspaper article that appeared in
22 the August 4, 2005 edition of the newspaper Florida Today. Though the copies purport to set forth
23 the text of the article as it appeared in that newspaper, in fact that text of the copies in the booklets
24 has been changed to omit Kirkland's first name and to alter the name of his company from Clarity
25 Development Corp to Senior Adult Living, Inc. Plaintiff alleges this is a deliberate attempt to hide
26 the true identity of defendant Patrick Boyd Kirkland, in order to deceive potential investors.

27 44. The senior triplex investments offered by Van H. Jacobs and Senior Adult Living, Inc.
28 are securities in the form of investment contracts which are subject to qualification under the

1 California Corporate Securities Law of 1968 which have been and are being offered without being
2 qualified, in violation of section 25110 of the California Corporations Code.

3 45. Defendants, including Van H. Jacobs and Senior Adult Living, offered and are
4 currently offering securities in the form of investment contracts involving senior triplex investments
5 by means of misrepresentations of material fact and by means of communications which have
6 omitted and omit material facts necessary in order to make the statements made, in the light of the
7 circumstances under which they were made, not misleading, in violation of section 25401 of the
8 Corporate Securities Law of 1968, by failing to reveal that two prior desist-and-refrain orders have
9 been issued to halt offers and sales of the senior triplex investments in California and failing to reveal
10 misrepresentations and omissions of material fact that were the basis for the second desist-and-refrain
11 order. Defendants have also concealed that the real name of the owner of the owner and president of
12 Senior Adult Living, Inc. is Patrick Boyd Kirkland rather than "Boyd" Kirkland and that the senior
13 triplex investments have previously been sold by corporations called Tropical Village, Inc., which is
14 now inactive, and Clarity Development, Inc. Defendants concealed that fact that the names of the
15 company offering and selling the senior triplex investments have twice been changed following
16 issuance of desist-and-refrain orders by the California Corporations Commissioner.

17 FIRST CAUSE OF ACTION

18 UNLAWFUL OFFER AND SALE OF UNQUALIFIED, NONEXEMPT SECURITIES
19 (Corporations Code §25110)
20 AS AGAINST ALL DEFENDANTS

21 46. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45,
22 inclusive, as though set forth at length herein.

23 47. Corporations Code §25110 makes it unlawful to offer or sell nonexempt, unqualified
24 securities. That section states:

25 It is unlawful for any person to offer or sell in this state any security in an issuer
26 transaction (other than in a transaction subject to Section 25120), whether or not by or
27 through underwriters, unless such sale has been qualified under Section 25111, 25112
28 or 25113 (and no order under Section 25140 or subdivision (a) of Section 25143 is in
effect with respect to such qualification) or unless such security or transaction is
exempted or not subject to qualification under Chapter 1 (commencing with Section
25100) of this part.

1 Corporations Code §25535 states:

2 (a) Any person who violates any provision of this law, or who violates any rule or
3 order under this law, shall be liable for a civil penalty not to exceed twenty-five
4 thousand dollars (\$25,000) for each violation, which shall be assessed and recovered
in a civil action brought in the name of the people of the State of California by the
commissioner in any court of competent jurisdiction.

5 48. Beginning at an exact date that is unknown to plaintiff; but at least since October
6 2000, and continuing through the present, TROPICAL VILLAGE, INC., CLARITY
7 DEVELOPMENT CORPORATION, SENIOR ADULT LIVING, INC., PATRICK B. KIRKLAND,
8 ANA RODRIGUEZ, LAURA B. WADE, VAN JACOBS and DOES 1 through 20, inclusive,
9 unlawfully offered and sold to more than 20 residents of the State of California unqualified,
10 nonexempt securities.

11 49. Defendants' pattern of conduct, as set forth above, demonstrates the necessity for
12 granting injunctive and ancillary relief restraining such and similar acts in violation of §25110, and
13 providing restitution or disgorgement to investors, as well as imposition of appropriate civil penalties.

14 WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as set forth
15 below.

16 SECOND CAUSE OF ACTION
17 UNLICENSED BROKER-DEALER ACTIVITY
18 (Corporations Code §25210)
19 AS AGAINST ALL DEFENDANTS

20 50. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45,
inclusive, as though set forth at length herein.

21 51. Corporations Code § 25210(a) sets forth the securities broker-dealer licensure
22 requirement as follows:

23 Unless exempted under the provisions of Chapter 1 (commencing with Section 25200)
24 of this part, no broker-dealer shall effect any transaction in, or induce or attempt to
25 induce the purchase or sale of, any security in this state unless the broker-dealer has
first applied for and secured from the commissioner a certificate, then in effect,
authorizing that person to act in that capacity.

26 Corporations Code §25535 states:

27 (a) Any person who violates any provision of this law, or who violates any rule or
28 order under this law, shall be liable for a civil penalty not to exceed twenty-five
thousand dollars (\$25,000) for each violation, which shall be assessed and recovered

1 in a civil action brought in the name of the people of the State of California by the
2 commissioner in any court of competent jurisdiction.

3 52. Defendants, TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT
4 CORPORATION, SENIOR ADULT LIVING, INC., PATRICK B. KIRKLAND, ANA
5 RODRIGUEZ, LAURA B. WADE, VAN JACOBS, and DOES 1 through 20, inclusive, are not
6 licensed to offer or sell securities by the Corporations Commissioner or any other similar licensing
7 entity. Beginning at an exact date unknown to Plaintiff, but at least since October 2000, and
8 continuing until the present, defendants unlawfully engaged in the business of effecting transactions
9 in the State of California by acting in such capacity without securing from the Corporations
10 Commissioner or any similar licensing entity an authorizing broker-dealer certificate. Defendants'
11 unlawful acts include, but are not limited to, engaging in a course of business of offering and selling
12 unregistered and nonexempt securities within the state to more than 20 people who are or were
13 residents of California. Plaintiff is informed and believes, and thereon alleges, that the scheme
14 defrauded hundreds of investors nationwide and millions of dollars invested have been lost.

15 53. Defendants' pattern of conduct, as set forth above, demonstrates the necessity for
16 granting permanent injunctive and ancillary relief restraining such and similar acts in violation of
17 §25210, and providing restitution to investors and disgorgement of all profits obtained, as well as
18 imposition of appropriate civil penalties.

19 WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as set forth
20 below.

21 THIRD CAUSE OF ACTION

22 UNLICENSED INVESTMENT ADVISER ACTIVITY
23 (Corporations Code §25230)
24 AS AGAINST ALL DEFENDANTS

25 54. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45,
26 inclusive, as though set forth at length herein.

27 55. Corporations Code § 25230(a) sets forth the investment adviser licensure requirement
28 as follows:

It is unlawful for any investment adviser to conduct business as an investment adviser

1 in this state unless the investment adviser has first applied for and secured from the
2 commissioner a certificate, then in effect, authorizing the investment adviser to do so
3 or unless the investment adviser is exempted by the provisions of Chapter 1
(commencing with Section 25200) of this part, or unless the investment adviser is
subject to Section 25230.1.

4 Corporations Code §25009 defines an investment advisor as: "any person who, for
5 compensation, engages in the business of advising others, either directly or through
6 publications or writings, as to the value of securities or as to the advisability of
investing in, purchasing or selling securities, or who, for compensation and as a part of
regular business, publishes analyses or reports concerning securities.

7 Corporations Code §25535 states:

8 (a) Any person who violates any provision of this law, or who violates any rule or
9 order under this law, shall be liable for a civil penalty not to exceed twenty-five
10 thousand dollars (\$25,000) for each violation, which shall be assessed and recovered
in a civil action brought in the name of the people of the State of California by the
commissioner in any court of competent jurisdiction.

11 56. Defendants, TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT
12 CORPORATION, SENIOR ADULT LIVING, INC., PATRICK B. KIRKLAND, ANA
13 RODRIGUEZ, LAURA B. WADE, VAN JACOBS, and DOES 1 through 20, inclusive, are not
14 licensed to as investment advisors, nor are they exempt. Beginning at an exact date unknown to
15 Plaintiff, but at least since October 2000, and continuing until the present, defendants unlawfully
16 engaged in the business of advising others, as to the value of securities or as to the advisability of
17 investing in, purchasing or selling securities for compensation and as part of their regular business.
18 Defendants' unlawful acts include, but are not limited to, engaging in a course of business of offering
19 and selling unregistered and nonexempt securities within the state to more than 20 people who are or
20 were residents of California. Plaintiff is informed and believes, and thereon alleges, that the scheme
21 defrauded hundreds of investors nationwide and millions of dollars invested have been lost.

22 57. Defendants' pattern of conduct, as set forth above, demonstrates the necessity for
23 granting permanent injunctive and ancillary relief restraining such and similar acts in violation of
24 §25230, and providing restitution to investors and disgorgement of all profits obtained, as well as
25 imposition of appropriate civil penalties.

26 WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as set forth
27 below.

28 ///

1 FOURTH CAUSE OF ACTION

2 UNLAWFUL OFFER AND SALE OF SECURITIES BY MEANS OF
3 UNTRUE STATEMENTS OR OMISSIONS OF MATERIAL FACT
4 (Corporations Code §25401)
5 AS AGAINST ALL DEFENDANTS

6 58. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 45,
7 inclusive, as though set forth at length herein.

8 59. Corporations Code §25401 makes it unlawful to offer or sell securities by means of
9 untrue statements or omissions of material fact. This section states:

10 It is unlawful for any person to offer or sell a security in this state or buy or offer to
11 buy a security in this state by means of any written or oral communication which
12 includes an untrue statement of a material fact or omits to state a material fact
13 necessary in order to make the statements made, in the light of the circumstances
14 under which they were made, not misleading.

15 60. Beginning at an exact date that is unknown to plaintiff; but at least since October 2000
16 and continuing through the present, defendants TROPICAL VILLAGE, INC., CLARITY
17 DEVELOPMENT CORPORATION, SENIOR ADULT LIVING, INC., PATRICK B. KIRKLAND,
18 ANA RODRIGUEZ, LAURA B. WADE, VAN JACOBS, and DOES 1 through 20, inclusive,
19 offered and sold to California's investing public securities issued by

20 61. TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION,
21 SENIOR ADULT LIVING, INC., PATRICK B. KIRKLAND, ANA RODRIGUEZ, LAURA B.
22 WADE, VAN JACOBS, and DOES 1 through 20, inclusive, offered and sold the securities by
23 representing to these prospective investors that they had professional skill and work experience
24 relating to investments and management of personal finances.

25 62. Defendants, and each of them, made the above misrepresentations of fact to the
26 investors with full knowledge of the truth, as indicated in Paragraphs 1 through 45. To date, none of
27 the investors have received a return of their principal or interest, as promised.

28 63. Defendants' pattern of conduct, as set forth above, demonstrates the necessity for
granting injunctive and ancillary relief restraining such and similar acts in violation of §25401, and
providing restitution or disgorgement to investors, as well as imposition of appropriate civil penalties.

64. Corporations Code §25535 states:

(a) Any person who violates any provision of this law, or who violates any rule or
order under this law, shall be liable for a civil penalty not to exceed twenty-five

1 thousand dollars (\$25,000) for each violation, which shall be assessed and recovered
2 in a civil action brought in the name of the people of the State of California by the
3 commissioner in any court of competent jurisdiction.

4 65. Defendants, and each of them, have violated the securities laws in the State of
5 California, as alleged in the First, Second, Third and Fourth Causes of Action, alleged above. As a
6 result, defendants' pattern of conduct, as set forth above, demonstrates the necessity for granting
7 permanent injunctive and ancillary relief restraining such and similar acts in violation of §25401, and
8 providing restitution or disgorgement to investors, as well as imposition of appropriate civil penalties.

9 WHEREFORE, Plaintiff prays for judgment against defendants, and each of them, as follows:

10 AS AGAINST ALL DEFENDANTS ON ALL CAUSES OF ACTION:

11 1. Pursuant to Corporations Code section 25530, for a temporary restraining order and
12 order of preliminary injunction and, ultimately, a permanent injunction, restraining and enjoining all
13 Defendants, their officers, directors, successors in interest, agents, employees, attorneys in fact, and
14 all persons acting in concert or participating with them, or any of them, from directly or indirectly:

15 a. Violating Corporations Code Section 25110 by offering or selling or
16 investment contracts or any other securities without that security being qualified pursuant to the
17 Corporate Securities Law of 1968, or unless an exemption is proven to the satisfaction of the Court
18 by defendants pursuant to Corporations Code section 25163;

19 b. Violating Corporations Code Section 25210 by effecting transactions in,
20 attempting to induce or attempt to induce the purchase or sale of any security without having
21 obtained a license as a broker-dealer from the Commissioner of Corporations;

22 c. Violating Corporations Code Section 25230 by engaging in the business of
23 advising others, directly or through publications or writings, as to the value of securities or as to the
24 advisability of investing in, purchasing or selling securities, without having obtained a license as an
25 investment adviser from the Commissioner of Corporations;

26 d. Violating Corporations Code Section 25401 by offering or selling or buying or
27 offering to buy investment contracts or any other securities by means of any written or oral
28 communication which includes an untrue statement of a material fact or omits to state a material fact

1 necessary in order to make the statements made, in light of the circumstances under which they were
2 made, not misleading.

3 e. Removing, destroying, mutilating, concealing, altering, transferring, or
4 otherwise disposing of, in any manner, any books, records, documents, correspondence, brochures,
5 manuals, or other documentation of any kind relating to the investments in the defendant corporate
6 entities, in the possession, custody or control of any of the Defendants.

7 f. Arranging for the marketing, solicitation, or advertisement of investments in
8 TROPICAL VILLAGE, INC., CLARITY DEVELOPMENT CORPORATION, SENIOR ADULT
9 LIVING, INC., or any other company of any name owned and/or controlled by PATRICK B.
10 KIRKLAND, ANA RODRIGUEZ, LAURA B. WAD E and/or VAN JACOBS, of fractional
11 investments in real estate interests, or of any similar type of investment in any other company, into
12 the State of California by way of any media, including, but not limited to, newspapers, magazines,
13 television, radio that reaches subscribers or a listening audience within the State of California, or
14 through the mail, or by way of direct telephone or other communication with residents of the State of
15 California.

16 2. For an Order that, pursuant to section 25535(a) of the Corporations Code Defendants,
17 and each of them, individually, jointly and severally, pay to the Department of Corporations, a civil
18 penalty in the maximum sum of \$25,000 (Twenty-five Thousand Dollars) for each act in violation of
19 Corporations Code Section 25110, a maximum penalty of \$25,000 (Twenty-five Thousand Dollars)
20 for each act in violation of Corporations Code Section 25210, a maximum penalty of \$25,000
21 (Twenty-five Thousand Dollars) for each act in violation of Corporations Code Section 25230, and a
22 maximum penalty of \$25,000 (Twenty-five Thousand Dollars) for each act in violation of
23 Corporations Code Section 25401.

24 3. That pursuant to section 25530(b) of the Corporations Code defendants, and each of
25 them, be ordered to disgorge all profits and compensation obtained as a result of the violations of law
26 complained of herein, all in the amounts and manner provided for by law.

27 4. For an Order of restitution comprising all money taken in from investors;
28

1 5. For an Order that all defendants disgorge all profits arising from or generated through
2 the use of the money taken in from investors;

3 6. For costs of suit herein, including costs of investigation; and;

4 7. For such and further relief as the court may deem just and proper.

5 Dated: November 29, 2005

6 WAYNE STRUMPFER
7 Acting California Corporations Commissioner

8 By: _____
9 JAMES K. OPENSNAW
10 Attorney for the People of the
11 State of California

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