



FOR IMMEDIATE RELEASE: September 12, 2019

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Independent Living Facility Operator Charged with Elder Abuse, Theft, and Other Crimes

Elder and dependent residents exposed to toxic gases, vermin, and bed bugs

City Attorney Mara W. Elliott announced today that the operator of a squalid independent living facility has been charged with willful cruelty to an elder and other crimes related to his housing of vulnerable seniors and dependent adults in a house overrun with trash, rodents, and bed bugs. The case is part of the City Attorney's crackdown on substandard housing and independent living facilities that violate health and safety laws.

Mark Rogers, 59, the operator of the facility, was arraigned yesterday on 22 misdemeanor counts and ordered by the judge to cease operating this facility and any others he runs in San Diego while the case is pending. Superior Court Judge David L. Berry issued a protective order to keep Rogers away from one of the facility's residents, and ordered Rogers to surrender any firearms by Friday. Rogers operated a single-family home at 5128 Ewing Street in the College Area, which housed 11 residents, nine of whom were either elderly or dependent adults, and one of whom used a wheelchair. Inspectors and investigators from the City Attorney's Office, the City's Code Enforcement Division, and the County Environmental Health Vector Control Program visited the property at least six times between November 16, 2018, and June 26, 2019.

“Many elderly and dependent residents rely on independent living facilities for housing, and often these facilities are their only alternative to living on the streets,” said City Attorney Mara W. Elliott. **“Our office has made it a priority to speak up on behalf of those who are forced to live in squalor, and to hold accountable those who abuse and exploit them.”**

In late April, two investigators from the City Attorney's Office found an elderly resident lying naked and disheveled in a bed. The room was full of trash and dirty clothing. Gravely disabled and unable to respond or care for himself, he was transported to a hospital. When inspectors visited again recently, the same resident was back in the home, and again found to be in serious condition. He was hospitalized a second time, and remained in the hospital as of yesterday.

Cockroaches and bed bugs were discovered throughout the home, along with rodent feces in various areas, including beds. Inspectors found carbon monoxide detectors that weren't working, and an improperly installed water heater that was venting toxic gases into the living space. The property had a shed and a patio cover that had been built without permits, and in addition to the general dilapidation of the structure, inspectors reported that the interior of the house smelled of urine. They also found a large amount of trash and debris in the back and side yards, including furniture, appliances, and mattresses.

Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at <https://www.sandiego.gov/cityattorney>

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(In a related civil case against Rogers, his attorney unsuccessfully attempted to obtain a Temporary Restraining Order to prevent inspectors from San Diego City Code Enforcement from going onto the property.)

On April 15, the City issued to the facility a Notice and Order to Vacate and Repair Substandard Building and Abate Public Nuisance.

Subsequently, Rogers evidently enlisted residents to fix up the property, undertaking demolition and repairs without the necessary permits, and then fraudulently billed the property manager for their work. One tenant helped remove unpermitted structures, and another was paid \$60 to remove and replace a fence. In both cases, Rogers submitted fabricated invoices to the property manager seeking reimbursement for thousands of dollars' worth of repairs.

He presented one invoice to the property manager indicating he'd paid \$3,450 in cash to Santillin Demolition and Removal of San Diego for the removal of the shed and patio cover. He also gave her an invoice for \$1,250 from Manuel's Fencing Repair in El Cajon, again indicating he'd paid the bill in cash. City Attorney's Office investigators determined that neither business actually existed.

Rogers faces 22 misdemeanor charges, including one count of willful cruelty to an elder, three counts of unlawful maintenance of a public nuisance, five counts of using premises without a proper building or electrical permits, three counts of theft, and ten counts of failing to have a Business Tax Certificate from the City (one count for each month since the investigation began, November through April).

The City has paid relocation expenses in the amount of \$2,700 per person for appropriate housing for the tenants. The City will be seeking reimbursement from Rogers for those costs.

There had been a warrant out for Rogers' arrest, but since he appeared in court yesterday with his attorney, Judge Berry agreed to release Rogers on his own recognizance. The judge ordered Rogers to stay at least 100 yards away from the resident who was hospitalized, and not to contact him. Rogers was also ordered to surrender his firearm, a .45-caliber Glock handgun, and bring proof to the judge Friday morning that it had either been surrendered to law enforcement, sold, or safely stored with a licensed firearm dealer.

Judge Berry furthered ordered Rogers to cease operating any independent living facilities, or subletting any properties he owns or leases, within the City of San Diego. He is to return to court for a readiness hearing on October 10. The case will be handled by Deputy City Attorney Cheryl Shitabata in the Special Prosecutions Unit.

The City Attorney's Office is currently investigating a number of similar cases involving substandard housing and independent living facilities.

The City Attorney's Office is committed to protecting our elderly residents. Elder abuse victims often live in desperation, unwilling or unable to seek assistance. They may fear retaliation from their abusers, or are embarrassed by their circumstances, or they fear becoming homeless.

To report elder abuse and adult dependent care emergencies, dial 911. For non-emergencies, contact the [San Diego Police Department](#) or another local law enforcement agency. Community members may report code, health and safety, and environmental violations to the City's [Code Enforcement Division](#) at 619-236-5500, or the City Attorney's [Nuisance Abatement Unit](#) at 619-533-5655.

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
CENTRAL DIVISION**

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
v.
MARK ROGERS,
dob 07/14/60;
Defendant

CT No. M261587DV

COMPLAINT-MISDEMEANOR

FILED
Clerk of the Superior Court

AUG 28 2019

By: L. Lacroix, Clerk

PC296 DNA TEST STATUS SUMMARY

Defendant

ROGERS, MARK

DNA Testing Requirements

DNA sample has been previously provided

CHARGE SUMMARY

<u>Count</u>	<u>Charge</u>	<u>Issue Type</u>	<u>Sentence Range</u>	<u>Special Allegations</u>	<u>Allegation Effect</u>
1	PC368(c) ROGERS, MARK	Misdemeanor	6 Mos		
2	SDMC121.0302(b)(4) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
3	SDMC121.0302(a) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
4	PC484 ROGERS, MARK	Misdemeanor	6 Mos		
5	SDMC121.0302(a) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
6	PC484 ROGERS, MARK	Misdemeanor	6 Mos		
7	PC368(d) ROGERS, MARK	Misd-17(b)(4)	1 Year		
8	SDMC121.0302(b)(4) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		

CHARGE SUMMARY (cont'd)

Count	Charge	Issue Type	Sentence Range	Special Allegations	Allegation Effect
9	SDMC121.0302(a) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
10	SDMC121.0302(a) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
11	SDMC121.0302(b)(4) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
12	SDMC121.0302(a) ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
13	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
14	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
15	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
16	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
17	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
18	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
19	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
20	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
21	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		
22	SDMC31.0121 ROGERS, MARK	Misdemeanor	6 Mos/\$1,000		

PC1054.3

INFORMAL REQUEST FOR DISCOVERY

The undersigned, certifying upon information and belief, complains that in the County of San Diego, State of California, the Defendant(s) did commit the following crime(s):

CHARGES

COUNT 1 - WILLFUL CRUELTY TO ELDER/DEPENDENT ADULT

On or about April 30, 2019, MARK ROGERS, being a person who knew and reasonably should have known that Jerome Northrup was an elder, under circumstances and conditions other than those likely to produce great bodily harm and death, did willfully and unlawfully cause and permit an elder, to suffer, and did inflict thereon unjustifiable physical pain and mental suffering; and having the care and custody of an elder did willfully and unlawfully cause and permit the person and health of an elder to be injured, and did willfully and unlawfully cause and permit Jerome Northrup to be placed in a situation in which his or her person and health was endangered, in violation of PENAL CODE SECTION 368(c).

COUNT 2 - UNLAWFUL MAINTENANCE OF A PUBLIC NUISANCE

On or about April 11, 2019, MARK ROGERS did unlawfully maintain and allow the existence of any condition that creates a public nuisance at 5128 Ewing Street, San Diego (APN 467-082-1100), to wit: unsanitary conditions, infestations of bed bugs, cockroaches, and rodents, dilapidation, and unpermitted structures, in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(b)(4), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0202.

COUNT 3 - USE OF A PREMISES WITHOUT A PERMIT OR VARIANCE

On or about April 24, 2019, MARK ROGERS did unlawfully maintain and use a premises, located at 5128 Ewing Street, San Diego (APN 467-082-1100), in violation of the Land Development Code, without a required permit, contrary to permit conditions, and without a required variance, to wit: using and maintaining a structure regulated by the Land Development Code that has been erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated, and partially demolished without first obtaining a Building Permit as required by San Diego Municipal Code section 129.0202(a) (to wit: patio cover and shed), in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(a), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0311.

COUNT 4 - PETTY THEFT

On or about and between April 24, 2019 and May 8, 2019, MARK ROGERS did unlawfully steal, misappropriate and fraudulently take the property and labor of another, thereby committing the crime of petty theft, in violation of PENAL CODE SECTION 484.

CHARGES (cont'd)

COUNT 5 - USE OF A PREMISES WITHOUT A PERMIT OR VARIANCE

On or about May 11, 2019, MARK ROGERS did unlawfully maintain and use a premises, located at 5128 Ewing Street, San Diego (APN 467-082-1100), in violation of the Land Development Code, without a required permit, contrary to permit conditions, and without a required variance, to wit: using and maintaining a structure regulated by the Land Development Code that has been erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated, and partially demolished without first obtaining a Building Permit as required by San Diego Municipal Code section 129.0202(a) (to wit: fence), in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(a), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0311.

COUNT 6 - PETTY THEFT

On or about and between May 11, 2019 and May 25, 2019, MARK ROGERS did unlawfully steal, misappropriate and fraudulently take the property and labor of another, thereby committing the crime of petty theft, in violation of PENAL CODE SECTION 484.

COUNT 7 - THEFT FROM ELDER/DEPENDENT ADULT (\$950 or less), PENAL CODE SECTION 17(b)(4)

On or about and between May 11, 2019 and May 25, 2019, MARK ROGERS, did unlawfully violate a provision of law proscribing theft, embezzlement, forgery, fraud, and Penal Code Section 530.5 proscribing identity theft with respect to the property and personal identifying information of Ming Shuw (Michelle) Lin, knowing and having reason to know that the victim was Ming Shuw (Michelle) Lin, when the money, labor, goods, services, and real and personal property taken and obtained was of a value of nine hundred fifty dollars (\$950) or less in violation of PENAL CODE SECTION 368(d), a misdemeanor pursuant to PENAL CODE SECTION 17(b)(4).

COUNT 8 - UNLAWFUL MAINTENANCE OF A PUBLIC NUISANCE

On or about May 14, 2019, MARK ROGERS did unlawfully maintain and allow the existence of any condition that creates a public nuisance at 5128 Ewing Street, San Diego (APN 467-082-1100), to wit: unsanitary conditions, infestations of bed bugs, cockroaches, and rodents, in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(b)(4), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0202.

COUNT 9 - USE OF A PREMISES WITHOUT A PERMIT OR VARIANCE

On or about June 26, 2019, MARK ROGERS did unlawfully maintain and use a premises, located at 5128 Ewing Street, San Diego (APN 467-082-1100), in violation of the Land Development Code, without a required permit, contrary to permit conditions, and without a required variance, to wit: using and maintaining a structure regulated by the Land Development Code that has been erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated, and partially demolished without first obtaining a Building Permit as required by San Diego Municipal Code section 129.0202(a) (to wit: fence), in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(a), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0311.

CHARGES (cont'd)

COUNT 10 - USE OF A PREMISES WITHOUT A PERMIT OR VARIANCE

On or about June 26, 2019, MARK ROGERS did unlawfully maintain and use a premises, located at 5128 Ewing Street, San Diego (APN 467-082-1100), in violation of the Land Development Code, without a required permit, contrary to permit conditions, and without a required variance, to wit: using and maintaining a structure regulated by the Land Development Code that has been erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated, and partially demolished without first obtaining a Building Permit as required by San Diego Municipal Code section 129.0202(a) (to wit: patio cover and shed), in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(a), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0311.

COUNT 11 - UNLAWFUL MAINTENANCE OF A PUBLIC NUISANCE

On or about June 26, 2019, MARK ROGERS did unlawfully maintain and allow the existence of any condition that creates a public nuisance at 5128 Ewing Street, San Diego (APN 467-082-1100), to wit: unsanitary conditions, infestations of bed bugs, cockroaches, and rodents, dilapidation, and unpermitted structures, in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(b)(4), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0202.

COUNT 12 - USE OF A PREMISES WITHOUT A PERMIT OR VARIANCE

On or about June 26, 2019, MARK ROGERS did unlawfully maintain and use a premises, located at 5128 Ewing Street, San Diego (APN 467-082-1100), in violation of the Land Development Code, without a required permit, contrary to permit conditions, and without a required variance, to wit: using and maintaining the installation, alteration, addition, and replacement of any electrical wiring, device, appliance, and equipment within and on any structure and premises without obtaining an Electrical Permit as required by San Diego Municipal Code section 129.0302, in violation of SAN DIEGO MUNICIPAL CODE SECTION 121.0302(a), a misdemeanor pursuant to San Diego Municipal Code sections 12.0201 and 121.0311.

COUNT 13 - NO CERTIFICATE OF TAX PAYMENT

On or about and between November 1, 2018 and November 30, 2018, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 14 - NO CERTIFICATE OF TAX PAYMENT

On or about and between December 1, 2018 and December 31, 2018, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

CHARGES (cont'd)

COUNT 15 - NO CERTIFICATE OF TAX PAYMENT

On or about and between January 1, 2019 and January 31, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 16 - NO CERTIFICATE OF TAX PAYMENT

On or about and between February 1, 2019 and February 28, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 17 - NO CERTIFICATE OF TAX PAYMENT

On or about and between March 1, 2019 and March 31, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 18 - NO CERTIFICATE OF TAX PAYMENT

On or about and between April 1, 2019 and April 30, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 19 - NO CERTIFICATE OF TAX PAYMENT

On or about and between May 1, 2019 and May 31, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 20 - NO CERTIFICATE OF TAX PAYMENT

On or about and between June 1, 2019 and June 30, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

CHARGES (cont'd)

COUNT 21 - NO CERTIFICATE OF TAX PAYMENT

On or about and between July 1, 2019 and July 31, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.

COUNT 22 - NO CERTIFICATE OF TAX PAYMENT

On or about and between August 1, 2019 and August 26, 2019, MARK ROGERS did unlawfully engage in any business, trade and occupation without first obtaining a certificate of payment, in violation of SAN DIEGO MUNICIPAL CODE SECTION 31.0121.



NOTICE: Any defendant named on this complaint who is on criminal probation for a misdemeanor offense within the City of San Diego or the City of Poway is, by receiving this complaint, on notice that the evidence presented to the court at the trial on this complaint is presented for a dual purpose: the People are seeking a conviction on the charges and simultaneously, the People are seeking a revocation of the defendant's probation, on any and all such probation grants, utilizing the same evidence, at the trial. Defenses to either or both procedures should be considered and presented as appropriate at the trial.

Pursuant to PENAL CODE SECTION 1054.5(b), the People are hereby informally requesting that defendant's counsel provide discovery to the People as required by PENAL CODE SECTION 1054.3.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT, CASE NUMBER M261587DV, CONSISTS OF 22 COUNTS.

Executed at City of San Diego, County of San Diego, State of California, on August 27, 2019.

COMPLAINANT