

Press Release

FOR IMMEDIATE RELEASE

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Convicted Tax Cheat Profits from Bay Area Nursing Homes

San Francisco — On Friday, August 22, 2008, the U.S. Court of Appeals for the Ninth Circuit upheld the conviction of Jack Easterday, a Bay Area nursing home operator, for failing to pay millions in payroll taxes withheld from the checks of his employees. The court's published ruling resulted from an appeal filed by Mr. Easterday after a district court jury found him guilty in March 2007 of failing to pay about \$9.6 million in payroll taxes. The district court sentenced Mr. Easterday to 30 months in prison and ordered him to pay \$8.7 million in restitution but delayed the prison sentence pending the appeal.

Despite his conviction, the California Department of Public Health (DPH) has allowed Mr. Easterday to continue operating several nursing homes, which receive tens of millions of dollars annually from the Medi-Cal and Medicare programs. According to the DPH website, Mr. Easterday currently owns at least eight skilled nursing facilities in California: Alameda Care Center, Brookvue Care Center, Eden West Convalescent, Homewood Care Center, Oakland Care Center, Pleasant View Convalescent, Rounseville Rehab Center, and Sunrise Healthcare Center.

Shortly after his original conviction in 2006, Senator Norm Coleman (R-Minn) described Mr. Easterday as a prime example of federal contractors who cheat on their taxes while maintaining a luxurious lifestyle. At a Senate hearing, he stated that Mr. Easterday "was living like Louis XIV, compliments of the American taxpayer." The March 14, 2006 hearing was titled "GSA Contractors Who Cheat on Their Taxes and What Should Be Done About It."

The U.S. Department of Justice reported that Mr. Easterday failed to pay over \$18 million in payroll taxes from 1998 to 2005 and that he thwarted the efforts of the IRS to collect the taxes by, among other things, paying himself and his wife exorbitant salaries and directors fees, while pleading poverty to IRS agents.

In 2007, the Department of Public Health issued AA citations to two of Mr. Easterday's nursing homes for neglect that led to the deaths of residents. On February 26, 2007, it fined Homewood Care Center \$100,000 – the highest fine allowed under California law – for the death of a resident. On April 3, 2007, it issued another \$100,000 fine to Pleasant View Convalescent for neglect that caused the death of a resident. The status of facility appeals are unknown.

Notwithstanding his criminal status and his facilities' history of neglect, California's Medi-Cal program continues to reward Mr. Easterday through profit payments exceeding \$1 million per year paid to his nursing homes. On top of their costs, Medi-Cal pays nursing homes 8 percent of their labor costs to spend or pocket as they wish. Every freestanding skilled nursing facility certified by Medi-Cal receives profit payments, no matter how poor its care. No other Medi-Cal providers are guaranteed a profit.

Following his original conviction in 2006, CANHR wrote DPH urging it to use its enforcement authority to force Mr. Easterday to sell the nursing homes to qualified operators. California law (Health & Safety Code §1294) authorizes DPH to revoke a license if a licensee is convicted of a crime that is substantially related to the functions of its licensed health facility. To date, no action has been taken.

The Ninth Circuit ruling is available at:

[http://www.ca9.uscourts.gov/ca9/newopinions.nsf/A35E67BB2348C605882574AC007E5EE0/\\$file/0710347.pdf?openelement](http://www.ca9.uscourts.gov/ca9/newopinions.nsf/A35E67BB2348C605882574AC007E5EE0/$file/0710347.pdf?openelement)

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