



Whistleblower Complaint

This Whistleblower Complaint is filed in accordance with the Department of Developmental Services "Regional Center or Vendor/Contractor Whistleblower Complaints" (http://www.dds.ca.gov/Complaints/Complt_WB.cfm).

This complaint alleges "improper regional center activity" on the part of the San Gabriel Pomona Regional Center (SGPRC) Executive Director, R. Keith Penman, or by persons directly or indirectly supervised by Mr. Penman. In particular:

Fraud – Making, or allowing to be made, false statements, including sworn testimony, in official communication with the Department of Developmental Services and administrative hearings.

Fiscal Malfeasance – Transferring services to a preferred vendor at a cost of \$10,000 per month, a 120% increase over the existing parent vendor.

Incompetency – Failing to assure that services were properly provided for a developmentally disabled Deaf client resulting in the client losing his long-term employment, being evicted from his long-term residence and becoming homeless.

This complaint also alleges "improper regional center activity" on the part of SGPRC Board member Bruce Wells Cruickshank. In particular:

Fraud – In his application for SGPRC Board membership, Mr. Cruickshank apparently failed to disclose his numerous convictions for, and related to, driving while under the influence of alcohol. Mr. Cruickshank apparently failed to disclose the revocation of his insurance license (OAH Decision L-2006110713).

Conflict of Interest – While acting as a member of the SGPRC Board of Directors, and during the period of time while his insurance license was revoked, Mr. Cruickshank's agency sold insurance policies to SGPRC vendors utilizing his wife, Clarita Bartolome Cruickshank, as the agent of record.

Background

The California State Auditor (<https://www.auditor.ca.gov/>) conducted an audit of the Department of Developmental Services oversight of regional centers. The report found nepotism and widespread fear of retaliation in the regional center system. (<http://californiawatch.org/dailyreport/audit-regional-centers-finds-nepotism-fear-retaliation-4256>)

Quoting from the *California Watch* report:

The Assembly Committee on Accountability and Administrative Review called for the probe of the Department of Developmental Services. Committee chairman Hector De La Torre, D-South Gate, said the audit backed up what he heard in a prior hearing about "favoritism in contracting, a lack of information about how regional centers spend billions of public dollars per year, and the pervasive fear of retaliation among regional center staff and service providers."

The Case of St. Sharbel's – Presenting False Statements At Hearings

The case of St. Sharbel's Residential Care Facility, Inc. is important. There are numerous anecdotal reports of the SGPRC making false statements at administrative hearings or in communication with the Department of Developmental Services. It is difficult for individuals, such as the undersigned, who typically don't have legal representation, to challenge a barrage of false statements. In the case of St. Sharbel's, an administrative law judge, Robert Walker, explicitly cites, in his decision, false statements made by the SGPRC's representative, attorney Judith Enright.
(<http://documents.sgprc.net/St%20Sharbels%20Decision.pdf>)

The particulars are unimportant; they are documented in Judge Walker's decision (<http://documents.sgprc.net/St%20Sharbels%20Decision.pdf>). What is important to note is that the false statements made by the SGPRC in this case are merely the "tip of the iceberg." In our opinion, the SGPRC administration has acted with impunity in making false statements about cases, clients, vendors, and others, whenever it suits their purposes.

Steps Residential Care, Inc. – Retaliation by the SGPRC

The operator of Steps Residential Care, Inc. was a long time service provider for the SGPRC starting in 1991. In 2007 the operator challenged the SGPRC regarding a requirement that operators assume legal costs for the SGPRC in liability cases. The operator brought this matter to an administrative hearing and won. "With that ruling, my real problems with the SG/PRC began..."

The operator goes on to relate how the SGPRC forced the closure of her facilities and ultimately the demise of Steps Residential Care.
(<http://www.ripoffreport.com/reports/san-gabrielpomona-regional-center/pomona-california-91768/san-gabriel-pomona-regional-center-developmentally-disabled-people-used-as-pawns-pomona-c-319036>)

Termination of Parent Vendors -- Fiscal Malfeasance and Incompetency

Parent vendors have been an important part of the SGPRC's service delivery resources for many years. This was the case with Support Services for the Deaf (www.ssdeaf.com)



which was established in 2001, by the undersigned, to provide services for his two Deaf children. The SGPRC had no Deaf vendors in their catchment area.

On October 4, 2012, at a SGPRC event, Mr. Penman advised the undersigned that “parent vendors are being phased out” so that they don’t have to comply with “the burden of things like insurance...” At a subsequent meeting (December 6, 2012), Mr. Penman clarified that it was not the policy of the SGPRC to eliminate parent vendors “if they comply with vendor regulations.” He then went on to say that Support Services for the Deaf was only “one of a handful” of remaining parent vendors and that we were “on my radar.”

Actions to terminate Support Services for the Deaf’s vendorization were initiated shortly thereafter. Support Services for the Deaf’s fourteen year vendorization was terminated effective February 1, 2015. During the course of litigation which resulted in the termination of Support Services for the Deaf’s vendorization, SGPRC representatives made numerous false statements in written communication with the Department of Developmental Services.

Services for the undersigned’s two children were transferred to a SGPRC vendor. This action has been disastrous for the two clients. In particular, Cavan Argila has become unemployed and homeless as a result of failed SGPRC vendor services. In the mean time, the cost of services for Cavan, provided by the SGPRC’s vendor, has increased by 120% to \$10,000 per month.

Anonymous Vendor Report #1 – Unlawful Change of Service Codes

A vendor who requests anonymity relates how the SGPRC “strong armed” his agency to change the “service codes” for which his staff provides services for clients. Service codes are designations which specify a particular type of service and the payment rate for that service. Service codes are driven by a client’s Individualized Program Plan (IPP). The IPP dictates required services which are provided by vendors under the appropriate service code.

Anonymous Vendor #1 reports that he was brought into the “regional center back rooms” and “strong armed” in to agreeing to change service codes. The new codes would result in lower payments by the SGPRC and a significant cut in vendor staff benefits. While it may be legitimate for the SGPRC to negotiate lower rates with its vendors, it is not legal to change client services outside of the IPP process.

Anonymous Vendor #1 felt that he had no choice but to accede to these “strong arm” tactics.

Anonymous Vendor Report #2 – Fear and Intimidation



In discussing his relationship with the SGPRC, Anonymous Vendor #2 had only one thing to say: "We need to be careful what we say or they will blackball us."

The reports cited above are but a few of the numerous anecdotal reports which the undersigned has uncovered without having any resources to pursue more in-depth investigation.

The undersigned believes that the above cited allegations, if verified, constitute grounds for the termination of employment of R. Keith Penman as Executive Director of the SGPRC. The undersigned also believes that these allegations warrant the resignation of SGPRC Board member Bruce Cruickshank.

The undersigned implores the Department of Developmental Services to not only look further into the allegations cited above, but to initiate an in-depth investigation of the operation of the SGPRC.

Respectfully Submitted by:

Carl A. Argila