

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James and Lorie Jensen, et al.,

Case No. 09-cv-01775 (DWF/BRT)

Plaintiffs,

vs.

Minnesota Department of Human
Services, et al.

**DECLARATION OF
MARK BROSTROM**

Defendants.

I, Mark Brostrom, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am employed by the Minnesota Department of Human Services (“DHS”) as Operations Manager of Minnesota Life Bridge (“MLB”). In this capacity, I am responsible for overseeing all operations of the MLB homes. This declaration is based on my personal knowledge.

2. As MLB Operations Manager, I am also responsible for ensuring compliance with Evaluation Criteria 28 through 37 of the Comprehensive Plan of Action (“CPA”) in this matter.

3. Evaluation Criteria 28 through 30 of the Comprehensive Plan of Action requires that Minnesota Life Bridge (“MLB”) personnel complete form 31032 (Form DHS-3654) following any use of manual restraint. Evaluation Criteria 31 through 37 require that within one business day the completed form be submitted to the Office of Health Facility Complaints (“OHFC”), the Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities, the DHS Licensing Division, the Court Monitor

and the DHS Internal Reviewer, the individual's legal representative and/or any designated family member, the individual's case manager, and Plaintiffs' counsel.

4. MLB administrative staff maintains an email template that is populated with the addresses to which DHS-3654 forms are required to be sent, with the exception of the case manager and legal representative, who were and are intentionally emailed the DHS-3654 forms separately.

5. On September 24, 2020, following an inquiry from DHS Quality Assurance and Disability Compliance Services ("QADC"), I learned that Forms DHS-3654 had not been sent to OHFC since May 25, 2018. Upon learning this information, I immediately investigated the issue and learned that the email address of the OHFC employee to whom DHS-3654 forms were submitted had become inactive, and that a form submitted to OHFC on May 25, 2018 had generated a reply indicating that the message was undeliverable. I also learned that on May 29, 2018, MLB staff advised QADC of the issue, and QADC indicated that it would work to identify a substitute contact. I also determined that after learning that the email address for the OHFC contact had become inactive, MLB administrative staff removed that contact from the email template for DHS-3654 forms.

6. As a result of human error, QADC either did not identify a substitute contact or MLB administrative personnel did not add this contact to the distribution list for DHS-3654 forms.

7. MLB personnel responsible for submitting DHS-3654 forms understood that MLB's email template for distributing these forms contained all parties required to receive

notice under the CPA (except the case manager and legal representative). Accordingly, when a completed form was sent using this template, it was the practice of MLB staff to check the box on the form representing that each necessary party had been notified via email. As a result, for forms dated between May 25, 2018 and September 24, 2020, MLB staff checked the box indicating that the form had been submitted via email to OHFC although the form had not actually been submitted to OHFC.

8. MLB has obtained from QADC a new OHFC contact address that is not affiliated with a specific employee and plans to direct all future reports to this address. On September 28, 2020, MLB sent to OHFC a Form DHS-3654 relating to a recent emergency use of manual restraint. OHFC responded that the reports did not involve a facility licensed by the Minnesota Department of Health and requested clarification of why the report was sent to OHFC. Attached hereto as **Exhibit 1** are emails between MLB and OHFC dated September 28, 2020. To my knowledge, during the period from May 25, 2018 to September 24, 2020, OHFC did not contact MLB to inquire why it was no longer receiving the DHS-3654 forms.

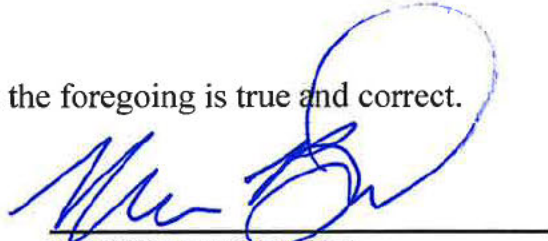
9. Subsequently on September 28, 2020, I sent to OHFC all Forms DHS-3654 involving incidents between May 2018 and September 28, 2020.

10. Email recipients of the Form DHS-3654 are visible to all other recipients. Between May 25, 2018 and September 24, 2020, no member of the distribution list for these forms has notified MLB that OHFC was not included as a recipient.

11. MLB is not licensed by the Minnesota Department of Health and has never been licensed by the Department of Health. Although a previous facility serving the same client population as MLB had held a supervised living facility license, and was licensed by the Department of Health, that facility ceased operation in August 2014. The MLB homes are licensed by DHS as Community Residential Settings under Minnesota Statutes chapter 245D.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 9/29/20



MARK BROSTROM

Brostrom, Mark S (DHS)

From: Anderson, Jeremy W (DHS)
Sent: Monday, September 28, 2020 10:12 AM
To: Brostrom, Mark S (DHS); Johnson, Gina P (DHS)
Subject: Fwd: [Encrypt] Minnesota Life Bridge Notification of Incident

Can someone help clarify?

Jeremy Anderson

Community Residential Supervisor | Minnesota Life Bridge

Minnesota Department of Human Services

[20345 Donnelly Ave](#)

[Farmington, MN 55024](#)

O: [651-463-3906](#)

C: [651-231-8564](#)

mn.gov/dhs

Begin forwarded message:

From: MN_MDH_OHFC-Complaints <HEALTH.OHFC-Complaints@state.mn.us>
Date: September 28, 2020 at 9:48:06 AM CDT
To: "Anderson, Jeremy W (DHS)" <jeremy.w.anderson@state.mn.us>
Subject: RE: [Encrypt] Minnesota Life Bridge Notification of Incident

Good Morning, Jeremy –

Thank you for reaching out to us!

Is OHFC being copied on these emails as an FYI? We do not see a current MDH license on file.

Thank you,
Stephanie

Stephanie Hanks

Intake Specialist | Intake & Triage Unit, Health Regulation Division

Minnesota Department of Health

Office: 218-308-2111

Vision: All Minnesotans receive quality care in a safe environment resulting in optimal health.



From: Anderson, Jeremy W (DHS) <jeremy.w.anderson@state.mn.us>
Sent: Monday, September 28, 2020 9:46 AM
To: Opheim, Roberta (OMHDD) <Roberta.Opheim@state.mn.us>; Strobel-Ayres, Andrea (OMHDD) <andrea.strobel-ayres@state.mn.us>; Scott.Ikeda@ag.state.mn.us; aaron.winter@ag.state.mn.us; Raddatz, Brittany L (DHS) <brittany.raddatz@state.mn.us>; 'david@ferleger.com' <david@ferleger.com>; 'office@ferleger.com' <office@ferleger.com>; anthony.noss@ag.state.mn.us; Baker, Daniel J (DHS) <daniel.baker@state.mn.us>; Smith, Marshall E (DHS) <marshall.e.smith@state.mn.us>; MN_MDH_OHFC-Complaints <HEALTH.OHFC-Complaints@state.mn.us>
Cc: Friend, Maggie A (DHS) <maggie.friend@state.mn.us>; Booth, Peg (DHS) <peg.booth@state.mn.us>; Brostrom, Mark S (DHS) <mark.s.brostrom@state.mn.us>; Chandler, Donovan A (DHS) <donovan.chandler@state.mn.us>; Sullivan Hook, Karen E (DHS) <karen.sullivanhook@state.mn.us>; Hallsten, Jerimy L (DHS) <jerimy.l.hallsten@state.mn.us>; Lange, Jolayne S. (DHS) <jolayne.lange@state.mn.us>; Courcy, Catherine X (DHS) <catherine.courcy@state.mn.us>
Subject: [Encrypt] Minnesota Life Bridge Notification of Incident

REDACTED

This form contains PRIVATE DATA – do not release without consent of data subject or as elsewhere provided by law.

* CONTAINS INFORMATION DESIGNATED AS “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” AND IS BEING PROVIDED TO CLASS COUNSEL AND THE COURT MONITOR UNDER THE JENSEN PROTECTIVE AGREEMENT

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