

Overview

1. This lawsuit involves a variety of schemes by Defendants, working together and in conspiracy with one another, to siphon large sums of money from Plaintiff, Kanellos D. Charalampous (“Dr. Charalampous”), a ninety-one (91) year-old man with Alzheimer’s and dementia; as well as from his trust and from a charitable foundation that he created. Dr. Charalampous died in January 2024.

2. Defendant Robbie Lee (“Lee”) was Dr. Charalampous’ paid caretaker. Using her position of power and control, she caused Dr. Charalampous to transfer to her a share of stock worth hundreds of thousands of dollars, to pay for substantial personal expenses on her behalf, and to transfer at least \$100,000 to third parties for her benefit, and for the benefit of her schemes. This was all years after Dr. Charalampous had been diagnosed with dementia and Alzheimer’s, and more than a year after Dr. Charalampous was directed in writing by his neurologist (in May 2021) that “You are no longer competent to manage your finances, which should now be managed by your children.”

3. The type of Alzheimer’s Dr. Charalampous had made him particularly desirous of sex, to the point of inappropriateness. Lee used this desire, caused by the disease, to control Dr. Charalampous by engaging in sexual acts with him. She also withheld Alzheimer’s medication, with the express purpose of controlling Dr. Charalampous. By engaging in sexual activity with a person medically unable to consent and by withholding prescribed medications that it was her duty to administer, Defendant Lee committed battery (and also violated criminal statutes prohibiting medical caretakers from engaging in sexual acts with those in their care).

4. The stock transfer to Lee occurred in September 2022 in the office and presence of Defendant Kimson Huu Cao (“Cao”), Dr. Charalampous’ financial advisor with Edward D. Jones & Co., L.P. (“Edward D. Jones”). Cao, a licensed Certified Financial Planner who either holds and/or held Series 7 and 63 Securities Licenses, had been informed in May 2021 of Dr. Charalampous’ diagnosis; and of the physician directive that Dr. Charalampous was no longer competent to manage his finances, and of the powers of attorney pursuant to which Dr. Charalampous’ sons were to manage his accounts. Cao also specifically promised Dr. Charalampous’ son, Constantine (Conrad), that he would be on the lookout for, and alert Conrad of, any suspicious activity, and communicated with Constantine about Dr. Charalampous’ accounts semi-regularly. Despite this, when Lee and Dr. Charalampous arrived in Cao’s office and requested together to transfer a share of Berkshire Hathaway stock worth \$400,000 to Lee, Cao, unilaterally and without authority, effected the transfer and did not alert Conrad of the request. He later lied to Conrad about the transfer and its timing. Cao has since been terminated by Edward D. Jones due to his role in the situation¹, and upon information and belief, is now affiliated with San Blas Securities, LLC, a broker-dealer registered with the SEC and FINRA.

5. More troubling still, fully aware of Dr. Charalampous’ diagnosed lack of capacity to manage his affairs, Cao referred Dr. Charalampous to an attorney friend, Stephen A. Mendel (“Attorney Mendel”), a principal of Mendel Law Firm L.P. (“Law Firm”) to change his estate plan. Thus, in February and May 2022, Lee brought Dr. Charalampous to Attorney Mendel and Law Firm, and had Dr. Charalampous execute a new estate plan directly contrary to the one he had made six

¹ In the FINRA BrokerCheck Report for Kimson Huu Cao, the Report states that Cao was terminated by Edward D. Jones on February 29, 2024 for “failure to timely notify the Firm after receiving indications of a client’s potential diminished capacity.”

years earlier when he was competent (the “Mendel Estate Plan”). The details of the estate plan were written out in advance by hand by Lee in a series of notes that have since been discovered by Plaintiffs. Despite repeated demand (and the filing of a lawsuit in Oklahoma, which was dismissed on jurisdictional grounds), Attorney Mendel and Law Firm refused to supply Plaintiffs with copies of the estate planning documents they claimed Dr. Charalampous executed until March 2024.

6. The Mendel Estate Plan’s will provides that the large majority of Dr. Charalampous’ estate would be placed in a trust, of which Attorney Mendel or his designee would serve as trustee indefinitely. Critically, the Mendel trust agreement directs only that *Mendel* distribute \$100,000 annually to Baylor College of Medicine (“BCM”), and \$25,000 annually to Texas Christian University (“TCU”). The only other requirements the trust agreement contains for use of trust funds is that they would continue to be managed in perpetuity by Cao—the same person who referred Dr. Charalampous to Attorney Mendel. And, the Mendel Estate Plan contemplates that Attorney Mendel would be paid a trustee’s fee based on an hourly rate or a percentage of the value of the trust estate, as determined by him “without the need for a court order.”

7. Given the size of Dr. Charalampous’ estate, if all his assets had been placed in that trust (as Mendel intended), the trust would produce several hundred thousand dollars in interest alone each year. Thus, the effect—and purpose—of the Mendel Estate Plan, was to create a multi-million-dollar fund, over which Mendel had complete control, with no beneficiaries to hold him accountable (as long as he distributed to TCU and BCM their relatively small set amounts each year). The Mendel Estate Plan is an absurdity on its face—when a person desires to benefit a university in their estate plan, they create an endowment in their name; they do not leave everything in a private trust

with an attorney the decedent barely knows to dole out small amounts to the university each year—and a sham created to benefit Attorney Mendel while creating the veneer of validity.

8. Attorney Mendel was assisted and enabled in creating the Mendel Estate Plan by the negligence and breaches of duty of Dr. Mark Edwin Kunik (“Dr. Kunik”), a psychiatrist and professor of BCM. Mendel hired Dr. Kunik to visit his office and evaluate Dr. Charalampous—which he did over the span of approximately seventy-five (75) minutes. During that time, Dr. Kunik never asked for Dr. Charalampous’ prior medical history, or whether he had been prescribed (or was taking) medication for Alzheimer’s or dementia. Worse yet, Dr. Kunik was expressly made aware that the estate plan at issue would benefit his employer, BCM—an employer that Dr. Kunik cares enough about to have provided for in his own estate plan. And Dr. Kunik conducted the evaluation three (3) days after “Dr. Charalampous” (in reality, Lee using Dr. Charalampous’ accounts) donated \$100,000 to Dr. Kunik’s employer, BCM. These disclosures and the gift to BCM did not lead Dr. Kunik to refuse from evaluating Dr. Charalampous (as he should have done). Instead, Dr. Kunik waited approximately a month after conducting the evaluation and then delivered to Mendel a one (1) page letter purporting to find no Alzheimer’s or dementia.

9. Upon discovery of the stock transfer to Lee, Conrad informed Cao that he was traveling to Houston to ascertain what was transpiring, and drove for ten (10) hours to Houston. During that time period, with Cao (and upon information and belief, Lee and Attorney Mendel) knowing that Dr. Charalampous’ sons were in the car on the way to get their dad, Cao (and upon information and belief, Lee and Attorney Mendel) caused Dr. Charalampous to sign an instrument purporting to revoke powers of attorney he had previously given his sons to care for him, his health, and his finances. Worse, the purported revocation contains an unconscionable provision purporting

to restrain Dr. Charalampous' ability to name another power of attorney unless the power of attorney is specifically drafted and/or approved by Attorney Mendel.

10. Plaintiffs bring this action to obtain money damages against Defendants and to obtain a declaratory judgment that any documents executed by Dr. Charalampous in 2022 at the direction of/in connection with Defendants are invalid by reason of lack of capacity, duress, and/or undue influence.

Discovery Control Plan

11. In accordance with Rule 190.1 of the Texas Rules of Civil Procedure, discovery is intended to be conducted under Level 2 of Rule 190.

Parties

12. Constantine Charalampous is the court appointed administrator of the Estate of Kanellos D. Charalampous, Deceased, in Case Number PB-2024-19; In the District Court of McClain County, Oklahoma..

13. Constantine Charalampous and Phillip Charalampous are the Trustees of the Kanellos D. Charalampous Revocable Trust.

14. The Charalampous Foundation is an Oklahoma not for profit corporation.

15. The Mendel Law Firm, L.P. is a Texas limited partnership which may be served with process by serving its registered agent, Stephen A. Mendel, at 19419 Kessington Lane, Houston, Texas 77094-3444, or at 1155 Dairy Ashford, Suite 104, Houston, Texas 77079, or wherever it may be found.

16. Stephen A. Mendel is an individual who may be served with process at 19419 Kessington Lane, Houston, Texas 77094-3444, or wherever he may be found.

17. Kathryn A. Mendel is an individual who may be served with process at 19419 Kessington Lane, Houston, Texas 77094-3444, or wherever she may be found.

18. Robbie Lee is an individual who may be served with process at 5827 Sampley Way, Houston, Texas 77092, or wherever she may be found.

19. Mark Edwin Kunik, M.D., is an individual who may be served with process at 4910 Bob Cat Run, Austin, Texas 78731-2607, or wherever he may be found.

20. Kimson Huu Cao is an individual who may be served with process at 9733 Bevyln Drive, Houston, Texas 77025, or wherever he may be found.

21. Baylor College of Medicine is a Texas non-profit corporation which may be served with process by serving its registered agent, James Banfield, 2450 Holcombe Boulevard, Suite OW200, Houston, Texas 77030, or wherever it may be found.

Venue

22. Venue is proper in Harris County pursuant to § 15.002(a)(1) of the Texas Civil Practice and Remedies Code ("Code") because it is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

Rule 47 Statement

23. This is a claim for declaratory judgment, breach of fiduciary duty, fraud misrepresentation, intentional infliction of emotional distress, assault, conversion, embezzlement and civil theft, unjust enrichment, negligence, money had and received. Plaintiffs seek monetary relief over \$1,000,000. TEX. R. CIV. P. 47(a)(4).

Factual Allegations

24. Dr. Charalampous was a psychiatrist and entrepreneur. He was financially successful and, over the course of his life, accumulated assets in excess of ten million dollars (\$10,000,000)².

25. In 1965, Dr. Charalampous created Dexion Foundation (“Dexion”), a Texas charitable 501(c)(3) foundation³.

26. In 1998, Dr. Charalampous created an estate plan which included: (i) a Last Will and Testament, (ii) Medical Power of Attorney, and (iii) Durable Power of Attorney. Dr. Charalampous named his sons, Conrad and Phillip, as Personal Representatives. Conrad and Philip were the only “individuals” named as heirs in the 1998 estate plan. Foundation was the only other named devisee, and only for a limited portion of the estate. Conrad and Philip were directors of the Foundation at the time and have been continuously since.

27. In 2016, Dr. Charalampous created a new estate plan. The estate plan included, but was not limited to, execution of a Last Will and Testament, creation of the Kanellos D. Charalampous Revocable Trust (“Trust”), execution of durable powers of attorney and medical powers of attorney, and an assignments of Dr. Charalampous’ assets to the Trust. Again, only Dr. Charalampous’ sons and existing entities were named as beneficiaries under his estate. Also, both sons were designated as attorneys in fact under the powers of attorney, as well as personal representatives and successor trustees in the respective estate documents.

² Although Dr. Charalampous was wealthy, he lived modestly. Being self made, he was not a “big spender,” and he watched his financial resources closely, making it even more preposterous that he would give Attorney Mendel and Cao control over his estate.

³ Plaintiff Charalampous Foundation (“Foundation”) is the successor-in-interest to Dexion.

28. In April 2017, Dr. Charalampous completed his first codicil to his will, still placing all of his assets into his revocable trust with the exception of his Greek assets, and furthermore ratified the non-affected terms of his will.

29. In 2019, Dr. Charalampous had a series of medical and other events demonstrating his rapidly declining cognitive function. These included a car accident in March 2019 where he ran a stop sign and then off the road entirely, into a tree in a neighbor's yard. The next month, in April 2019, Dr. Charalampous spent five (5) days in the hospital suffering from confusion and delirium after being found in an altered mental state (AMS) sitting next to his car. And in November 2019, Dr. Charalampous was examined at Memorial Hermann Hospital after being admitted overnight. The discharge paperwork stated that Dr. Charalampous had dementia and was taking dementia medication.

30. In April 2021, after an initial neurological examination by a board-certified neurologist, Dr. Charalampous was referred to and later examined by a board-certified neuropsychologist.

31. On May 5, 2021, after extensive examination, Dr. Charalampous was diagnosed with Dementia of the Alzheimer's type⁴, Moderate Severity, with Behavioral Disturbance (disinhibition). In the follow-up visit with the neurologist, Dr. Charalampous was declared "No longer competent" and having moderate dementia, Alzheimer's type.

⁴ Dementia of the Alzheimer type is a progressive, fatal neurodegenerative condition characterized by deterioration in cognition and memory, progressive impairment in the ability to carry out activities of daily living, and an number of neuropsychiatric symptoms.

32. On May 14, 2021, the neurologist sent a letter to Dr. Charalampous stating, “You are no longer competent to manage your finances, which should be managed by your children...” Dr. Charalampous’ sons were also sent a copy of the letter.

Defendants create schemes to siphon money from Dr. Charalampous

33. Lee was Dr. Charalampous’ paid nurse and caretaker at all relevant times. She was with him at the hospital during both 2019 events, and signed the discharge paperwork noting his dementia. She was responsible for making sure he took his medications relating to the dementia and Alzheimer’s. There is no question that she was aware of Dr. Charalampous’ condition, and the limits it placed on his abilities.

34. Indeed, on May 14, 2021—the same day that the neurologist sent Dr. Charalampous a letter declaring him no longer competent— Lee admitted in a text message that Dr. Charalampous had Alzheimer’s.

35. At some point, Lee began to use her position and her knowledge of Dr. Charalampous’ condition to take financial advantage of him.

36. Among other things, the particular type of Alzheimer’s Dr. Charalampous has made him particularly desirous of sex, to the point of inappropriateness. Lee used this desire, caused by the disease, to control Dr. Charalampous by engaging in regular sex acts with him.

37. In addition to the sexual acts, Lee would at times withhold from Dr. Charalampous (without his knowing) his Alzheimer’s and dementia medications, to make him more confused and easier to control.

38. Some of Lee's schemes were simple. For example, she used credit cards and other accounts belonging to Dr. Charalampous to purchase things for herself and her family. Others of her schemes were more intricately planned.

The Estate Planning Scheme

39. In early 2022, Lee and Attorney Mendel caused Dr. Charalampous to donate \$100,000 to BCM. BCM communicated directly with Lee both before and after the donation, over the course of several months, and took no steps to confirm that Dr. Charalampous—rather than Lee—was the driving force behind the donation.

40. Three days after the donation, Dr. Kunik sent a one-page letter, directed to Attorney Mendel, stating that Dr. Charalampous had “mild cognitive impairment without dementia,” and purporting to find him competent to execute new estate planning documents. The letter does not mention any aptitude, cognitive or physical testing results, nor does it mention any of Dr. Charalampous' prior extensive history of diagnoses with dementia and Alzheimer's or the medications he was taking for the same. In fact, Dr. Kunik's evaluation consisted of him sitting down with Dr. Charalampous for a little more than an hour in a lawyer's office, not seeking prior medical records or medication history, and not performing any kind of formal testing.

41. Dr. Kunik's report is wholly inconsistent with every evaluation of Dr. Charalampous done in the three (3) years prior, as well as every evaluation since. It was fraudulently procured in a transparent attempt by Lee, Attorney Mendel, and Cao to provide cover for their subsequent acts.

42. What's more, Dr. Kunik's report states that, in the course of the evaluation, Dr. Kunik determined that Dr. Charalampous was aware of who the beneficiaries of the Mendel Estate Plan would be—meaning that Dr. Kunik himself had to be aware of the beneficiaries (so he could confirm Dr. Charalampous' statements against the beneficiaries listed on the document itself). Thus, Dr. Kunik was aware at the time of his evaluation that the primary named beneficiary of the estate plan was his employer, BCM.

43. On May 9, 2022, Lee took Dr. Charalampous to see Attorney Mendel. While there, Attorney Mendel, Law Firm, and Lee purport that Dr. Charalampous executed a new estate plan that is wholly inconsistent with all of his prior estate plans.

44. Despite repeated demand—and despite Conrad being placed as guardian over his father and his father's assets in November 2022—Attorney Mendel and Law Firm refused to provide Plaintiffs copies of the Mendel Estate Plan until March of 2024.

45. It is important to be clear that, by operation of law, Trust became irrevocable when Dr. Charalampous lost capacity, and his sons became trustees at that time. As a result, Dr. Charalampous did not have the legal ability in May 2022 to change the disposition of assets that had been previously assigned to the Trust or to the Foundation. Such assets include—but are not limited to—the assets in Dr. Charalampous' Edward D. Jones account.

46. Of note, Dr. Charalampous never paid so much as one dollar to Attorney Mendel or Law Firm directly for these alleged estate planning services. However, on May 9, 2022—the same day Defendants say Dr. Charalampous met with Attorney Mendel—Dr. Charalampous signed a \$5,500 check to “Kathryn Mendel,” attorney Mendel's wife (“Kathryn”). The memo line on the

check indicates it is for “ART.” The check is written in its entirety by Lee, with the signature line being the only input by Dr. Charalampous.

47. Dr. Charalampous never bought artwork from Kathryn. Rather, the check was intentionally deceptively written by Lee to appear to be a legitimate expense, so as to not raise red flags with Dr. Charalampous’ sons (who had access to the bank account). That this was the purpose of having the check made out to Kathryn was admitted by Attorney Mendel in a signed affidavit.

The Stock Transfer Scheme and POA Revocation Scheme

48. On September 21, 2022, Lee took Dr. Charalampous to see Cao, his Edward D. Jones broker. While they were there together, she had Dr. Charalampous sign an authorization form directing the broker to transfer one share of Berkshire Hathaway Inc. stock to Lee. The value of that one share exceeded \$400,000 at the time.

49. On October 27, 2022, Dr. Charalampous told his son, Conrad, confused about whether and why he had transferred the stock to Lee. Conrad called the broker, who told him what had happened. These two phone calls were the inciting incidents that led to the discovery of all of Defendants’ various schemes.

50. Upon making the discovery, Conrad announced that he was driving to Houston immediately and would arrive later that evening. Conrad arrived in Houston that evening. He saw his father, talked to him briefly, and went to bed.

51. Conrad later learned that on that very same day, his father is purported to have signed a revocation of the power of attorney granted to Conrad and Philip back in 2016. That is, after Lee, Attorney Mendel, and Cao were caught, they had a senior with Alzheimer’s sign a revocation of the powers of attorney he had previously given to his sons to care for him, his health, and his finances.

They had him revoke not only his Durable Power of Attorney, but also his Medical Power of Attorney, leaving him totally without anyone authorized to care for him. This was two (2) days before Dr. Charalampous was found to be so further diminished in his capacity that his neurologist stated that guardianship is “necessary.”

52. More shockingly, the purported revocation contained an unconscionable provision purporting to restrain Dr. Charalampous’ ability to name another power of attorney unless the power of attorney is specifically drafted and/or approved by Attorney Mendel.

53. Worse still, Attorney Mendel has admitted in an affidavit that at the time he drafted the Power of Attorney revocations, he had already learned about the \$400,000 transfer to Lee and he also knew about the prior diagnosis of Alzheimer’s and dementia.

54. The fact, timing, and details of the October 27 revocation make clear that Lee, Cao, and Attorney Mendel—on the verge of being caught—caused Dr. Charalampous to sign it in hopes that they might avoid the consequences of their prior misconduct.

55. On or about October 31, 2022—after Conrad and his wife informed Lee that what she had done with the Edward D. Jones account was criminal—Lee returned cash in lieu the stock she had taken (presumably because she had already liquidated the actual share).

56. This is not the first time Attorney Mendel and Law Firm has done something like this. Rather, Attorney Mendel has been sued for substantially the same acts at least once before. *See* Cause No. 447733-401; *In the Estate of Abdulraziq Radi Abusalah, Deceased*; In the Probate Court Number Two (2) of Harris County, Texas.

Causes of Action

57. Plaintiffs incorporate herein, by reference, the same as if set forth at length verbatim, the factual allegations hereinabove.

Declaratory Judgment (Attorney Mendel, Law Firm, BCM, Lee)

58. Plaintiffs seek a judicial declaration pursuant to the Uniform Declaratory Judgments Act (“UDJA”) that any instruments executed by Dr. Charalampous in 2022 are invalid and unenforceable. Documents executed by one who lacks sufficient legal or mental capacity may be avoided.

59. All of these instruments were signed as a result of undue influence, and as such, should be voided. There existed influence, the effective operation of such influence so as to subvert or overpower the mind of Dr. Charalampous at the time of the execution of the testament, and the execution of a testament which Dr. Charalampous would not have executed but for such influence.

60. Moreover, Dr. Charalampous lacked capacity at this time to understand the business in which he was engaged, to understand the effect of the instruments he was executing, to understand the general nature and extent of his property, and to know the natural objects of his bounty and the claims upon them.

61. Because the 2022 instruments are invalid, void, and unenforceable, all monies received as a result of such instruments must be disgorged and returned, including any monies paid to Attorney Mendel, Law Firm, BCM, and Lee.

Breach of Fiduciary Duty (Attorney Mendel and Law Firm)

62. Attorney owes fiduciary duties to their client as a matter of law. The term “fiduciary” refers to integrity and fidelity; thus, the attorney-client relationship is one of the most abundant good faith, requiring absolute perfect candor, openness and honesty, and the absence of any concealment or deception. Attorneys must, among other things, render a full and fair disclosure of facts material to the client's representation.

63. Attorney Mendel and Law Firm failed to act with integrity and fidelity and received an improper benefit. Among other things, Attorney Mendel and Law Firm had a duty to represent their client with undivided loyalty, a duty to act with absolute perfect candor, openness, and honesty and without concealment or deception, a duty to be strictly honest about fee arrangements and to refrain from self dealing, a duty to inform their client of matters material to representation. Attorney Mendel and Law Firm breached their fiduciary duties causing damage, for which Plaintiffs seek recovery herein.

64. Moreover, because the conduct of Attorney Mendel and Law Firm was a “clear and serious breach of duty,” forfeiture of the fees paid to such Defendants is required in order to “satisfy the public's interest in protecting the attorney-client relationship.” Additionally, the conduct of Attorney Mendel and Mendel Law Firm was wanton, intentional and done with malice, with full knowledge of the injury which would ensue to Plaintiffs. Such malicious and reckless conduct justifies an award of punitive damages against both Attorney Mendel and Law Firm. Accordingly, Plaintiffs are entitled exemplary damages in an amount sufficient to have the desired punitive and deterrent effects.

Conspiracy to Breach Fiduciary Duty (Dr. Kunik)

65. Kunik knowingly induced Attorney Mendel and Law Firm to breach their fiduciary duties, or participate in the breach, and as such, is liable as a joint tortfeasor. There was a fiduciary duty between attorney and client, Kunik knew of that relationship, and was aware of his participation in the breach of the fiduciary duty. Accordingly, Kunik is liable to Plaintiffs for which they seek recovery herein for all damages sustained as a result of the conspiracy to breach such fiduciary duties.

Conspiracy to Defraud (Dr. Kunik)

66. Attorney Mendel and Law Firm engaged and paid Kunik to assess the testamentary capacity of Dr. Charalampous, and agreed that Kunik would “not be establishing a client/patient privilege” with him, or that Kunik was “becoming his treating psychiatrist.”

67. Kunik knowingly assisted Attorney Mendel and Law Firm to defraud Plaintiffs by having Kunik opine on the testamentary capacity of Dr. Charalampous, when Attorney Mendel and Law Firm were aware that Dr. Charalampous had been previously diagnosed with Alzheimer’s and did not have contractual or testamentary capacity. As a joint tortfeasor in this conspiracy to defraud Plaintiffs, Kunik is liable for all damages, for which Plaintiff seek recovery herein.

Breach of Fiduciary Duty (Cao)

68. Cao, who acted as an investment advisor for Dr. Charalampous, occupies a fiduciary relationship. The relationship between a broker and its customer is that of principal and agent. As such, Cao had a heightened responsibility to review his client’s account and act as a fiduciary.

69. Cao violated his fiduciary duties, which included the duty of loyalty and good faith, duty to refrain from self dealing, duty to act with integrity of the strictest kind, and the duty of fair, honest dealing, for which Plaintiffs seek recovery herein.

Texas Securities Act Violation (Cao and Lee)

70. Cao and Lee have violated the Texas Securities Act, which imposes joint and several liability on aiders and abettors in a fraudulent securities transaction. TEX. GOV'T CODE. §4001.001 *et. seq.*

71. The Texas Securities Act (“TSA”) establishes both primary and secondary liability for securities violations arising under Subchapter B of the TSA which is entitled “Civil Liability with Respect to Issuance or Sale of a Security.” (§4008.051 to §4008.062). Primary liability arises under §4008.052(a) of the TSA when a person offers or sells a security “by means of an untrue statement of a material fact or an omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.” Secondary liability is derivative liability for another person's securities violation; it attaches to an aider, defined as one “who directly or indirectly with intent to deceive or defraud or with reckless disregard for the truth or the law materially aids a seller, buyer, or issuer of a security ... under Section 33A, 33B, or 33C.” Aiders are jointly and severally liable with the primary violator “to the same extent as if [they] were” the primary violator. TEX. GOV'T CODE §4008.055(d).

72. Pursuant to section 4004.352 of the TSA, if a securities professional or a person serving in a legal capacity for a dealer or investment adviser has cause to believe that financial exploitation of a vulnerable adult who is an account holder with the dealer or investment adviser has occurred, is occurring, or has been attempted, the securities professional or person serving in a legal

capacity for the dealer or investment adviser shall notify the dealer or investment adviser of the suspected financial exploitation. Cao failed to report to Edward D. Jones that Lee was exploiting Dr. Charalampous. Moreover, Cao negligently failed to report the financial exploitation of Dr. Charalampous, a vulnerable adult, to his adult children, in contravention of section 4004.354 of the TSA.

73. Cao, an investment advisor who rendered services as an investment advisor to Dr. Charalampous, committed fraud or engaged in a fraudulent practice in rendering services to Dr. Charalampous, is liable to Plaintiffs, who seek damages herein. TEX. GOV'T CODE §4008.101(b).

Fraud/Negligent Misrepresentation (Attorney Mendel and Law Firm)

74. Attorney Mendel and Law Firm made material false representations to Dr. Charalampous for the express purpose of convincing Dr. Charalampous to execute estate planning documents which inured to Attorney Mendel and Law Firm's financial windfall, at a time that Attorney Mendel and Law Firm knew of the Alzheimer's diagnosis. Attorney Mendel and Law Firm made the representations with the intent that they be acted upon and Dr. Charalampous relied on such representations, which caused injury, for which Plaintiffs seek recovery herein.

75. Pleading in the alternative, Attorney Mendel and Law Firm made representations to Dr. Charalampous in the course of their business or in a transaction in which they had a pecuniary interest. Attorney Mendel and Law Firm did not use reasonable care in obtaining or communicating the information, and the negligent misrepresentation proximately caused Plaintiffs' injuries, for which they seek recovery herein.

76. The conduct of Attorney Mendel and Law Firm was wanton, intentional and done with malice, with full knowledge of the injury which would ensue to Plaintiffs. Such malicious and reckless conduct justifies an award of punitive damages against them. Accordingly, Plaintiffs are entitled to exemplary damages in an amount sufficient to have the desired punitive and deterrent effects.

Conspiracy to Defraud (Attorney Mendel, Law Firm, Kathryn and Lee)

77. There was a civil conspiracy between Attorney Mendel, Law Firm, Kathryn, and Lee to defraud Plaintiffs. That is, there were two or more persons, an object to be accomplished, a meeting of the minds, one or more unlawful, overt act, and damages as the proximate result, for which Plaintiffs seek recovery herein.

Conspiracy to Defraud (Lee and Cao)

78. There was a civil conspiracy between Cao and Lee to defraud Plaintiffs. That is, there were two or more persons, an object to be accomplished, a meeting of the minds, one or more unlawful, overt act, and damages as the proximate result, for which Plaintiffs seek recovery herein.

Money Had and Received (Kathryn)

79. Kathryn holds money that belongs to Plaintiffs in equity and good conscience. Plaintiffs sue Kathryn for monies that rightfully belong to them, along with exemplary damages.

Negligence (BCM)

80. As the beneficiary of a financial donation to BCM from Dr. Charalampous, BCM had a duty to conduct due diligence to ensure that the donation was bona fide and actually authorized by Dr. Charalampous. BCM breached that duty and the breach proximately caused Dr. Charalampous injury, for which recovery is sought herein.

Negligence (Cao)

81. The relationship between a broker and its customer is that of principal and agent. The broker may become liable to his principal for any negligent or other wrongful act done by him where his principal suffers damage. Cao breached his duty to Plaintiffs by permitting the stock transfer to Lee after being informed of the mental condition of Dr. Charalampous. Such breach proximately caused damages for which Plaintiffs seek recovery herein.

Offensive Physical Contact (Lee)

82. Lee is liable for assault by offensive physical contact, for which relief is sought herein. She acted intentionally or knowingly, she made contact with Dr. Charalampous, she knew or reasonably should have believed that Dr. Charalampous would regard the contact as offensive or provocative, and caused injury to Dr. Charalampous.

Infliction of Bodily Injury (Lee)

83. Lee is liable for assault by infliction of bodily injury, for which relief is sought herein. She acted intentionally, knowingly, or recklessly, she made contact with Dr. Charalampous, and her contact caused bodily injury to Dr. Charalampous.

Breach of Fiduciary Duty (Lee)

84. Lee was Dr. Charalampous's caretaker. An informal fiduciary duty arose from a moral, social, domestic and purely personal relationship of trust and confidence. The dealings between Lee and Dr. Charalampous continued long enough to justify Dr. Charalampous's reliance on Lee to act in his best interest.

85. As a fiduciary, Lee had a duty of loyalty and utmost good faith, a duty to refrain from self-dealing, a duty to act with integrity of the strictest kind, and a duty of honest dealing. Lee breached her fiduciary duties and is liable for all damages, including actual damages, mental anguish damages, and exemplary damages.

Texas Theft Liability Act (Lee)

86. Lee is liable to Plaintiffs pursuant to the Texas Theft Liability Act, TEX. CIV. PRAC. & REM. CODE §134.001 to 134.005 (“TTLA”).

87. Plaintiffs’ had a possessory right to property, Lee unlawfully appropriated the property by taking it without the consent of Dr. Charalampous. Lee appropriated the property with the intent to deprive Plaintiffs’ of the property and the Plaintiffs’ sustained damage, as a result of such theft, for which they seek recovery herein.

88. In addition to such actual damages, Plaintiffs can recover up to \$1,000 in actual damages, for which they seek recovery. TEX. CIV. PRAC. & REM. CODE 134.005(a)(1).

Respondent Superior/Vicarious Liability

89. As Dr. Kunik’s employer, BCM is vicariously liable to Defendants under a theory of respondeat superior. There was an agency relationship between Kunik and BCM (i.e., employer-employee relationship), Dr. Kunik committed a tort, and the tort was committed in the course and scope of Dr. Kunik’s authority. Accordingly, BCM is vicariously liable for the tortious conduct of Dr. Kunik, even though BCM did not personally commit that particular wrong.

90. As Attorney Mendel's employer, Law Firm is vicariously liable to Defendants under a theory of respondeat superior. Attorney Mendel is a licensed attorney and Law Firm was formed for the purpose of the practice of law. Attorney Mendel is a principal of Law Firm and work performed by Attorney Mender was on Law Firm letterhead and for the benefit of Law Firm. All intentional tortious actions of Attorney Mendel were done in the course and scope of his role with Law Firm.

Conditions Precedent

91. All conditions precedent necessary to maintain this suit have been performed, have been waived, or have occurred.

Legal Fees

92. Plaintiffs have been forced to retain counsel and incur expenses including reasonable legal fees and court costs. Plaintiffs have retained the law firm of Dow Golub Remels & Gilbreath, PLLC and has agreed to pay reasonable attorneys' fees. An award of reasonable and necessary attorneys' fees is authorized by section 37.009 of the UDJA, section 4008.060(b) of the TSA, and section 134.005(b) of the TTLA.

93. Plaintiffs hereby designate the undersigned attorney, Sanford L. Dow, as its expert to testify as to reasonable and necessary attorneys' fees incurred in the preparation and trial of this lawsuit.

Request For Jury Trial

94. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Plaintiffs hereby request a jury trial and are contemporaneous with the filing of this Original Petition, tendering the required jury fee.

Relief Requested

WHEREFORE, Plaintiffs, THE ESTATE OF KANELLOS D. CHARALAMPOUS, through its Court Appointed Administrator, Constantine Charalampous; (ii) CONSTANTINE CHARALAMPOUS, TRUSTEE of the Kanellos D. Charalampous Revocable Trust; and (iii) THE CHARALAMPOUS FOUNDATION pray that Defendants, THE MENDEL LAW FIRM L.P., (ii) STEPHEN A. MENDEL; (iii) KATHRYN A. MENDEL; (iv) ROBBIE LEE; (v) MARK EDWIN KUNIK, M.D.; (vi) KIMSON HUU CAO, and (vii) BAYLOR COLLEGE OF MEDICINE, be cited to appear, and that upon final trial, it be awarded the following from Defendants, as follows:

- a. Actual, consequential, and statutory damages;
- b. A judicial declaration that any instrument executed by Dr. Charalampous in 2022 is *void ab initio* and unenforceable, and as a result, all monies paid to third parties as a result of such instruments must be disgorged and returned to Plaintiffs;
- c. Reasonable and necessary legal fees;
- d. Exemplary damages to be determined by the trier of fact;
- e. Interest at the maximum non-usurious rate as allowed by law;
- f. All costs of court; and
- g. Such other and further relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

DOW GOLUB REMELS & GILBREATH, PLLC

By: s/ Sanford L. Dow

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Unofficial Copy Office of Marilyn Burgess District Clerk