

November 14, 2006  
1664 Buttercup Road  
Encinitas, CA 92024

Mr. J. Neal Purcell  
Chair, Audit and Compliance Committee  
C/o Office of Board and Governance Services  
Kaiser Foundation Health Plan  
One Kaiser Plaza, 19<sup>th</sup> Floor  
Oakland, CA 94612-3600

Cc: Thomas W. Chapman, Chair, Executive Committee  
Cc: Kim J. Kaiser, Chair, Governance, Accountability & Nominating Committee

Re: NOTICE

- Corporate Governance Malfeasance
- Americans with Disabilities Act Fraud
- Sarbanes-Oxley Act Noncompliance

Dear Mr. Purcell:

I am writing to you in your capacity as a Kaiser Foundation Health Plan (hereinafter KFHP) independent director and the Chair of KFHP's Audit and Compliance Committee (hereinafter Audit Committee).

I am a former federal fraud, waste, abuse and mismanagement investigator. I began investigating HMOs, subsequent to the passage of the Health Maintenance Organization Act of 1973. I have evaluated many nonprofit healthcare boards of directors relative to the performance of their independent oversight duties. Independent directors have a fiduciary duty to ensure the uncompromising honesty and integrity of the organization.

The undisputed evidence presented in my August 22, 2006 Notice to Mr. Halvorson (enclosure), substantiates that Mr. Halvorson and his subordinate physicians/administrators, and other individuals have acted in concert to initiate, perpetuate, and conceal, both systemically and systematically, illegal acts in violation of both the Sarbanes-Oxley Act and the Americans with Disabilities Act.

#### SARBANES-OXLEY OVERSIGHT DEFICIENCIES

The evidence presented in my August 22, 2006 Notice to Mr. Halvorson substantiates that KFHP's board of directors' oversight and enforcement are not in compliance with the legal mandates of the Sarbanes-Oxley Act. KFHP's Audit

Committee and its independent auditor, KPMG LLP (hereinafter KMPG), are deliberately indifferent to and/or have aided and abetted Mr. Halvorson's illegal conduct, which has materially harmed KFHP and has violated the civil and contractual rights of KFHP's sicker, older and disabled patients.

KFHP's Audit Committee has apparently failed to create and evaluate the effectiveness of internal, anti-fraud audit preventative/detective controls, including but not limited to:

- The absence of a firewall between management and KFHP's board.
- The absence of advertised procedures for both the transmission and investigation of material patient complaints to the Audit Committee.
- The absence of advertised procedures that promote and protect patient whistleblowers.

KFHP's violations of Sarbanes-Oxley comports with Senator Charles Grassley's conclusion that:

“[T]he CEO ha[s] the board of directors over a barrel and helped himself to whatever he could get...[KFHP's board of directors] has a duty... to find out what happened...” (Exhibit 1)

Absent appropriate investigation and corrective action, you and KFHP's independent board members are aiding and abetting Mr. Halvorson's illegal and unethical conduct, which has been documented by my substantial, undisputed direct and circumstantial evidence. Mr. Halvorson's pattern of fraud and abuse as CEO of HealthPartners, in conspiracy with and to the benefit of his board of directors, has been well documented by Minnesota Attorney General Mike Hatch in his multi-volume audit and in his testimony to the Senate Committee on Finance. (Enclosure at pp. 5-6)

#### NONCOMPLIANCE WITH THE SARBANES-OXLEY ACT

The objective of the Sarbanes-Oxley Act is to bolster the integrity of managers, to assert the independence of non-executive directors and external auditors, and to increase transparency. My evidence shows that Mr. Halvorson's conduct materially violates KFHP's express commitment to Sarbanes-Oxley. Mr. Halvorson's violations include, but are not limited to:

- Fraud.
- Breach of business ethics.
- Breach of applicable laws, regulations, and standards.
- Breach of conflict of interest requirements.
- Retaliation against patient whistleblowers.

KFHP's Audit and Compliance Committee must be inextricably involved in the receipt and handling of complaints, in addition to making initial decisions about investigative procedures, and the implementation/oversight/evaluation of the process. KFHP's procedures, that direct all patient complaints to management and non-supervisory employees and defer to those individuals to decide whether and how to investigate, are material violations of the letter and spirit of Sarbanes-Oxley.

KFHP's Audit Committee has the authority to conduct any investigation appropriate to fulfilling its duties. Apparently, management has not been required to self-report and does not self-report all material irregularities and questionable practices to KFHP's Audit and Compliance Committee. Complainants fear and experience reprisal, when their complaints are funneled to management. Pursuant to Sarbanes-Oxley, KFHP's Audit and Compliance Committee must:

- Develop a procedure for receiving, retaining, and handling complaints regarding alleged material irregularity/illegality.
- Assure that complainants are not subjected to discrimination.
- Assure that complainants are not subjected to retaliation.
- Assure that complainants are not subjected to a hostile environment.
- Assure that complainants are not denied medically necessary health care, absent their coerced agreement to prior restraint on their speech to enforce their civil and contractual rights in their physician-patient relationships.

CONFLICT OF INTERESTInadequate Internal Controls to Prevent Manipulation.

Undisputed direct and circumstantial evidence strongly substantiates the appearance of conflict of interest between your performance of your duties as Chair of KFHP's Audit and Compliance Committee and your adherence to KFHP's express commitment to comply with both the spirit and the letter of Sarbanes- Oxley:

- In 2002 you retired as Vice Chairman, National Audit Practice Operations, KPMG, Intl.
- In early 2003 KFHP's board "...determined that it would be appropriate to enter into a bidding process for an external auditor for 2004..."<sup>1</sup>
- In July, 2003 you joined KFHP's Board of Directors.<sup>2</sup>
- The Minutes of the October 27, 2003 KFHP board meeting stated that a KFHP special board committee interviewed two prospective external audit firms and "determined that both firms were fully qualified, but selected KPMG as the best choice for auditor for 2004." (Exhibit 2)
- The Minutes of that meeting stated that you were "...not in attendance at either the committee or the Board meeting to avoid any involvement with the auditor selection process..." The Minutes did not expressly state that you had recused yourself entirely from any involvement in the process (e.g., Request for Proposal, bidding, proposal evaluation and selection) due to your "employment history with KPMG." *Id.*
- Only one day subsequent to the committee's interviews, the Minutes document that:

"...on October 28, 2003 the Audit and Compliance Committee appointed KPMG as the external auditor for Kaiser Foundation Health Plan, Inc. and its subsidiaries and Kaiser Foundation Hospitals and its subsidiaries for 2004." *Id.*

---

<sup>1</sup> Minutes of a Meeting of the Board of Directors of the Kaiser Foundation Health Plan, October 27 and 29, 2003.

<sup>2</sup> KFHP 2003 Return of Organization Exempt From Income Tax (IRS Form 990)

- On December 23, 2003, KFHP announced that the Board had selected KPMG as its independent (external) auditor for 2004 to comply with Sarbanes-Oxley. (Exhibit 3)
- Subsequent to the retention of KPMG, you were appointed Chair of KFHP's Audit and Compliance Committee, which has oversight of KPMG, as KFHP's independent auditor.
- KPMG has expressly stated that KFHP "...made the decision to seek a new firm [KPMG] after 60 years with their auditors," in order to comply with The Sarbanes-Oxley Act. (Exhibit 4)

#### Appearance of Illegality and Impropriety.

I have both chaired and served on federal contractor selection committees. Appropriate committee evaluation and documentation of the value of competing proposals, especially for the purpose of contracting with an external audit firm for a large organization, cannot be legitimately accomplished one day subsequent to interviewing bidders. Any competent, independent, external auditor would red flag and thoroughly investigate KFHP's highly unorthodox departure from professional contracting standards and procedures, and controls for selecting its external auditor.

The temporal proximity of these events, i.e., your 2002 employment as Vice Chairman, National Audit Practice, at KPMG prior to joining KFHP's board in 2003, the 2003 one-day evaluation and selection of KPMG to be KFHP's external auditor in 2004, and your appointment to chair KFHP's Audit Committee in 2004, creates the appearance that KFHP's board of directors, pursuant to your direction, may be integral participants in a fraudulent enterprise to intentionally manipulate and undercut KFHP's actual compliance with Sarbanes-Oxley.

Your apparently seamless "revolving door" transitions from Vice Chairman, KPMG National Audit Practice Operations in 2002, to KFHP's board of directors in 2003, to KFHP's Chair, Audit and Compliance Committee in 2004, also raise a red flag that should trigger independent investigation. The fact that you had been employed as KPMG's Vice Chairman, National Audit Practice, in 2002 raises questions regarding your actual involvement in KFHP's decision in "early 2003... to enter into a bidding process for an external auditor for 2004."

KFHP's Board Meeting Minutes may contain false statements regarding your recusal and independence in the selection of KPMG to be KFHP's external auditor:

- The Minutes are silent regarding whether you and/or KPMG and its agents had prior business relationships involving payments with KFHP, its subsidiaries, its employees/agents and/or with HealthPartners, its subsidiaries, its employees/agents, during your employment at KPMG.
- KPMG provides you with retirement benefits and other benefits, which could be incentive-based and materially related to your positions as an independent director and Chair of KFHP's Audit and Compliance Committee.

The totality of the evidence creates the strong appearance that KPMG's selection, as the first external auditor of KFHP, had been predetermined. Based on my experience, the pattern of multiple, serious irregularities in the contracting process is indicative of kickbacks and other illegal *quid pro quo* benefits provided to KFHP's board members/management, prior to and subsequent to, KPMG's selection.

A similar pattern of events occurred when Arthur Anderson, the former employer of UnitedHealth's current CEO, Mr. Stephen J. Hemsley, was hired by UnitedHealth's management as its auditor subsequent to his employment. An independent investigation raised "questions about Mr. Hemsley's judgment in managing potential conflicts of interest" and "found that UnitedHealth had 'inadequate internal controls...to prevent manipulation.'"<sup>3</sup>

Senators Grassley and Baucus are investigating UnitedHealth's oversight failure by its independent directors. In their October 18, 2006 letter they requested that UnitedHealth:

"Provide copies of any conflicts of interest or similar policies. Explain whether such policies were followed and enforced...Explain what, if any changes to these policies UnitedHealth is considering..."<sup>4</sup>

KFHP's independent directors' compliance with their legal oversight duties requires Mr. Halvorson and other employees to report even the suspicion of material irregularities. Whether and in what manner Mr. Halvorson is required to report, and may or may not have reported my multiple Notices of illegality to KFHP's Audit and Compliance Committee, will indicate the extent of KFHP's

---

<sup>3</sup> The New York Times, October 17, 2006.

<sup>4</sup> Letter from Senators Grassley and Baucus to the Chairman, Compensation and Human Resources Committee, UnitedHealth Group, October 18, 2006.

compliance with Sarbanes-Oxley, if any. As Senator Grassley so accurately observed:

“I have found again and again in my oversight work that many organizations can trace their problems to board governance. This is true whether it be non-profit or for-profit.”<sup>5</sup>

### RACKETEERING ENTERPRISE

Mr. Halvorson has caused KFHP to violate Sarbanes-Oxley and the Americans with Disabilities Act through illegal agreements with other individuals, such as Mr. Sid Wolinsky, Director of Litigation, Disability Rights Advocates. Mr. Halvorson has created a RICO enterprise to perpetuate illegality through disability discrimination, retaliation, hostile environment, fraudulent misrepresentation/concealment and mail and wire fraud. The purpose of this enterprise is to unjustly enrich KFHP and other individuals and entities by the wrongful denial of civil rights and medically necessary contractual benefits to disabled patients and their advocates.

KFHP’s 2001-2002 Annual Report advertised that:

“A new, far-reaching agreement between Kaiser Permanente and Disability Rights Advocates...will dramatically improve service to members with disabilities in California. By taking a collaborative approach to help disabled members who use Kaiser Permanente facilities in the state, both organizations were able to avoid conflict and focus instead on a solution.” (Exhibit 5)

Their “solution” implemented an illegal agreement by individuals representing KFHP and Disability Rights Advocates to violate the Americans with Disabilities Act. KFHP’s 2001-2002 Annual Report never makes any express reference that their “solution” was a legal settlement to mandate KFHP’s compliance with the Americans with Disabilities Act.

The Americans with Disabilities Act is not even mentioned, indicating that its omission was intentional in order to avoid providing notice to patients of their legal rights and protections pursuant to the ADA and to the terms and conditions of the settlement. KFHP’s Americans with Disabilities Act settlement agreement with Disability Rights Advocates has no value whatsoever for, and grievously

---

<sup>5</sup> Senate Finance Committee Chairman Charles Grassley’s Letter to the Chairman of the Board of Governors, the American Red Cross, February 27, 2006.

harms the federally protected class of KFHP's disabled patients, who rely upon its fraudulent misrepresentations.

KFHP's Audit and Compliance Committee has failed to detect and/or remedy KFHP's violations of federal civil rights mandates pursuant to ADA, as well as violations of KFHP's Metzler Settlement Agreement with Disability Rights Advocates to remedy intentional ADA noncompliance. KFHP has engaged in prohibited conduct with knowledge that it is acting in violation of federal and state law. KFHP and its agents have acted with malice and reckless indifference to the federally protected rights of disabled patients and their advocates, injuring their dignity, health and safety.

### RACKETEERING ENTERPRISE PREDICATE ACTS

#### Mail and Wire Fraud.

Further notice and offers to settle this matter cooperatively with Mr. Halvorson are futile. Mr. Halvorson has orchestrated, perpetuated and concealed a racketeering enterprise to violate patients' civil rights, as guaranteed by the Americans with Disabilities Act, through mail and wire fraud for the purpose of unjust enrichment. Mr. Halvorson and his agents have engaged in prohibited conduct with knowledge that they are acting in violation of federal law to harm disabled patients and their advocates.

In response to my August 22, 2006 Notice (enclosure), Mr. Halvorson caused KFHP's agents to make one telephone call and to mail two letters (Exhibit 6) to Dr. Robert Finney, my husband and advocate, and to mail three letters (Exhibit 7) to me in order to intentionally harm us by the fraudulent concealment and perpetuation of illegal activity.

- On September 29, 2006 Mr. Brad Jenkins, Medicare Senior Case Manager, KFHP Member Services, telephoned Dr. Finney to inform us that he intended to arrange a conference call to respond to my August 22, 2006 Notice to Mr. Halvorson. Mr. Jenkins was unable to discuss my Notice. He stated that he had not read my Notice, but may have read part of the Notice's first page. He stated that Kaiser was in "a state of flux."
- Dr. Finney requested, and Mr. Jenkins agreed, to send us a letter to confirm KFHP's proposed agenda for the telephone call, the names of the proposed participants, and any other issues of concern to KFHP that would be addressed during the telephone call. The purpose of Dr.

Finney's request was to impose order and competence on Kaiser's "state of flux" investigative process.

- In a letter dated October 2, 2006 Mr. Jenkins notified Dr. Finney that KFHP had terminated its investigation.
- In a subsequent letter dated October 4, 2006 Mr. Jenkins notified Dr. Finney that KFHP was initiating an investigation into the same issues, whose investigation had been terminated two days earlier on October 2, 2006. The dates, in and by themselves, prove that KFHP's purported "investigation" was a fraud.
- In a letter dated October 5, 2006 Ms. Jaime Crippen, KFHP Senior Case Manager, notified me that KFHP had initiated an investigation.
- In a letter dated the following day, October 6, 2006, Ms. Crippen notified me that KFHP had terminated its investigation that had been initiated the previous day. The dates, in and by themselves, prove that KFHP's purported "investigation" was a fraud.
- In a letter dated October 5, 2006 Ms. Natasha Lal, Project Manager, KFHP ADA Compliance, notified me that KFHP's investigation had been terminated. Ms. Lal sent copies of her letter to Mr. Halvorson, Ms. Crippen, Mr. Jenkins, and Mr. Horton. The dates and copy distribution, in and by themselves, prove that all of KFHP's purported "investigations" were performed pursuant to a fraudulent scheme directed by Mr. Halvorson.

#### Fraudulent Investigative Methodology and Findings.

It is wholly inappropriate for KFHP to rely on its own discredited complaint system to support fraudulent, self-serving conclusions. A nonexhaustive summary of the salient deficiencies in KFHP's purported "investigations" include findings that:

- KFHP correspondence did not address and did not even mention the words that constituted the substance of my complaints, i.e., "discrimination, retaliation, hostile environment and fraud." Neither Mr. Halvorson nor any KFHP agent has ever disputed or denied any of my findings of fact and conclusions. Neither Mr. Halvorson nor his agents have ever disputed or denied that Dr. Finney and I have been irreparably harmed by discrimination, retaliation, hostile environment and fraud.

- In violation of ADA and the Metzler Settlement, Ms. Lal put the burden on me, a disabled patient, to fulfill KFHP's legal duty to provide "specific information regarding the specific doors and locations" that do not accommodate mobility-impaired patients.<sup>6</sup>
- Mr. Jenkins' October 2, 2006 letter is rife with false and misleading statements. One of his false statements, intended to justify KFHP's discrimination, retaliation and hostile environment acts against Dr. Finney is:

"It is not within Dr. Houkom's practice to treat adult orthopedic patients."

Dr. Houkom's written record of this visit states that he does not "usually practice" in adult orthopedics. He did not state that "[I]t is not within [my] practice to treat adult orthopedic patients."

At our May 9, 2006 visit with Dr. Houkom, I specifically asked if he provided the specific medical diagnosis and treatment (that Dr. Finney had requested) to other adult orthopedic patients, when he was "on call" at various KFHP facilities. Dr. Houkom replied: "Yes." Dr. Houkom tacitly admitted his intentional disparate treatment of Dr. Finney.

---

<sup>6</sup> Independent, unannounced, on-site inspections are required to eradicate KFHP's fraudulent enterprise to perpetuate disability discrimination and retaliation. KPMG's failure to audit, detect and remedy KFHP's illegal conduct is indicative of management's control of KPMG's external audits.

I am inviting Mrs. Cheryl Sensenbrenner to accompany me to "the specific doors and locations," should you fail to remedy KFHP's unconscionable conduct. Mrs. Sensenbrenner also is afflicted by a mobility disability. Perhaps Congressman Sensenbrenner and Dr. Finney, our husbands and advocates, will volunteer to be illegally burdened to locate all "specific doors and locations" at Kaiser facilities that do not comply with ADA access requirements. Perhaps Congressman Steny Hoyer will also volunteer. KFHP's illegal demands justify and substantiate The Americans with Disabilities Restoration Act of 2006 (H.R. 6258), sponsored by Congressmen Sensenbrenner and Hoyer.

Perhaps Congressmen Sensenbrenner and Hoyer can persuade Senator Grassley to volunteer to meet KFHP's illegal burden to identify "specific doors and locations." Senator Grassley's site visit will further justify and substantiate his legislation regarding oversight of organ donation/transplant programs and non-profit corporate governance. Our independent, surprise on-site inspections may achieve an additional benefit of locating kidneys and other organs that have been denied to KFHP's transplant patients, because they were hidden behind KFHP's "specific [closed] doors in specific [undisclosed] locations.")

My subsequent independent investigations have found that Dr. Houkom's "practice" treats adult orthopedic patients at the present time and that he has treated other adult orthopedic patients for at least five years. I have also discovered that Dr. Houkom's pattern of disruptive conduct includes verbal abuse of adult orthopedic patients in his "practice" and denial of appointments to severely disabled patients in his "practice" for at least the past year.

- Mr. Jenkins' October 4, 2006 correspondence to Dr. Finney stated that Dr. Larry Williams' denial of orthopedic care "...is currently under investigation." Mr. Jenkins' letter did not provide any explanation to justify, substantiate, and document Dr. Williams' termination of Dr. Finney's orthopedic medical care, immediately subsequent to my informing Mr. Halvorson that the Congress had accepted my petition to enforce the Americans with Disabilities Act.

#### Whistleblower Disparate Treatment and Retaliation.

KFHP has not disputed that Mr. Halvorson caused Dr. Williams to terminate Dr. Finney's medical care in retaliation for my petitioning the Congress. Had Dr. Williams not terminated Dr. Finney's orthopedic care, his need to obtain orthopedic care from other KFHP physicians may have been moot. Dr. Houkom noted in his record of our May 9, 2006 visit that Dr. Williams failed to respond to both oral and written requests for treatment.

The evidence shows that Dr. Finney has been subjected to disparate treatment by Dr. Williams. Ms. Ann Loubey (Orthopedics Department Administrator) informed me in a telephone conversation, subsequent to Dr. Williams' termination of care, that she has routinely witnessed that Dr. Williams has a standard practice of returning patient telephone calls, even after office hours. I requested (and she agreed to transmit my request) that Dr. Williams respond to Dr. Finney's multiple oral and written requests to communicate with him. Dr. Williams has never responded to, and has never caused his subordinates to respond to, our requests.

The results of KFHP's purported "investigations" regarding legal and ethical violations, as stated in my Notices to Mr. Halvorson, were predetermined by Mr. Halvorson. KFHP's purported "investigations are absurd on their face. Such absurdity does not merit an exhaustive reply to each fraudulent statement. Selective portrayal of evidence and ignoring evidence is fraudulent. That these letters are a pretext to justify illegal conduct is proven by evidence of their individual and combined weakness, implausibilities, inconsistencies, incoherencies, and contradictions. They are rationally unworthy of credence.

U.S. DEPARTMENT OF JUSTICE

CIVIL RIGHTS INVESTIGATIVE PROCEDURES

The U.S. Department of Justice, Civil Rights Division, produced an “Investigative Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes (1998). The Manual’s Table of Contents is attached as Exhibit 8.<sup>7</sup>

That KFHP’s purported “investigations” are fraudulent is confirmed by their failure to conform to either the letter or the spirit of DOJ’s Civil Rights Investigations Manual.

A cursory review of selected sections from the DOJ Manual’s Table of Contents documents that appropriate investigations of a complaint alleging disability discrimination, retaliation, and hostile environment regarding two individual persons cannot be initiated and completed within five days. The consistent adherence to sound investigative methodology is critical to ensure a thorough and legally sufficient investigation.

KFHP’s purported “investigations” directed by Mr. Halvorson, did not include meaningful analysis and remedies for:

- All complaints specified in my August 22, 2006 Notice to Mr. Halvorson.
- Intentional discrimination/disparate treatment. (Ex 8)
- Disparate impact/effects. *Id.*
- Retaliation. *Id.*

KFHP’s “investigative methodology,” if any, was constructed and implemented in bad faith and was deficient in all areas identified as integral by DOJ, i.e.:

- Analysis of direct and circumstantial evidence.(Ex. 8)
- Impartiality of the investigator. *Id.*

---

<sup>7</sup> Updates to this Manual are available from U.S. DOJ.

- Analysis of evidence. *Id.*
- Investigative report. *Id.*
- Letters of findings and absence of remedies. *Id.*
- Implementation of a settlement agreement, and monitoring/ compliance reviews. *Id.*

#### KFHP'S PATTERN OF RETALIATION AGAINST COMPLAINANTS

KFHP's failure to appropriately investigate and remedy patient complaints is systemic and systematic:

- On May 12, 2006 the Centers for Medicare and Medicaid's (CMS) investigation report found that KFHP did not investigate complaints by kidney transplant patients and that management oversight of physicians, administrators and procedural safeguards were absent. CMS also reported that KFHP both misled and lied to patients and their advocates.
- Likewise, the California Department of Managed Health Care's August 8, 2006 investigation of KFHP reported that KFHP did not investigate complaints by kidney transplant patients and that management oversight was absent. DMHC's investigation reported that KFHP's failure to investigate complaints is state-wide and is not confined to its kidney transplant program.

KFHP's pattern of illegal and unethical conduct reflects oversight failure by KFHP's independent directors, who know or should know, that management's illegal conduct has harmed patients. KPMG has not tested the effectiveness of the design and operation of KFHP's internal controls, if any, to assess material weaknesses in compliance with legal and regulatory requirements:

- A material weakness precludes an unqualified opinion that controls are effective.
- Inadequate documentation of controls design may result in a significant deficiency or material weakness.
- A material weakness may exist, when management has not obtained sufficient evidence to support its evaluation of operating procedures.

The failure of KPMG to detect and remedy KFHP's absence of effective internal controls has resulted in material operating deficiencies, fraud and litigation.

INDEPENDENT DIRECTORS' CERTIFICATION OF COMPLIANCE  
AMERICANS WITH DISABILITIES ACT/SARBANES-OXLEY ACT

Mr. Halvorson and high level officers of KFHP have been made aware of our complaints for years, but have failed to stop the fraud. KFHP has neither advertised nor enforced its written procedures, if any, to report illegal/unethical conduct and to protect patients who risk and experience retaliation for reporting misconduct.

The totality of the evidence shows that each KFHP independent director may be an integral participant in Mr. Halvorson's conduct of illegal schemes to facilitate and conceal his intentional violations of clearly established law. Liability is established, if KFHP's independent directors are aware of Mr. Halvorson's illegal schemes and/or plan and otherwise participate in his illegal schemes for the purpose of unjust enrichment that has inflicted irreparable harm upon Dr. Finney and me.

Sarbanes-Oxley provides protection for whistleblowers and imposes criminal penalties for actions taken in retaliation against those patients who risk wrongful denial of medically necessary health care by reporting suspected illegal activities in the organization. It is illegal for any entity - for profit and nonprofit alike - to punish whistleblowers in any manner. A reasonable belief or suspicion of fraud is sufficient to create protected status for the whistleblowers. The Americans with Disabilities Act also provides protection for whistleblowers and their advocates.

KFHP's Audit and Compliance Committee's investigation/remedial action or its failure to investigate and promptly remedy illegal conduct pursuant to this Notice will confirm whether KFHP's failure to stop the fraud is due to:

- KFHP's independent directors' negligence.
- KFHP's independent directors' intentional violation of their fiduciary duties.

KFHP's Audit and Compliance Committee is no less liable for violation of federal law than is Prudential Finance. DOJ's August, 2006 settlement with Prudential Financial mandated Prudential's General Counsel be held personally responsible for five years to provide a twice a year reports to Prudential's board

audit committee as to the appropriateness and effectiveness of DOJ's mandatory compliance plan.

The SEC's director of enforcement imposed a long-term, mandatory settlement agreement that requires government oversight of Prudential, because:

“High level officers of Prudential were aware of the complaints, but failed to stop the fraud.”

Mr. Halvorson, KFHP directors, and their agents are intentionally violating the Americans with Disabilities Act and the Sarbanes-Oxley Act. Dr. Finney and I have been irreparably harmed for engaging in legally protected activities as members of a protected class of disabled patients and their advocates, who blow the whistle.

It is the legal duty of KFHP's independent directors to:

- Certify and ensure KFHP's compliance with federal law.
- Terminate KFHP employees who intentionally violate federal law.
- Ensure appropriate remedies to eradicate violations of federal law.
- Compensate patients who have suffered grievous physical and emotional harm due to KFHP's unconscionable, continuing pattern of illegal conduct.

KFHP's independent directors' failure to propose an acceptable remedy no later than December 15, 2006 will cause me to proceed.

Yours truly,

Jacquelyn Finney

Cc: Senator Charles E. Grassley, U.S. Senate Committee on Finance  
Congressman F. James Sensenbrenner, Jr., U.S. House Committee on the Judiciary  
Congressman Steny Hoyer, U.S. House Appropriations Committee  
Thomas W. Chapman, Chair, KFHP Executive Committee  
Kim J. Kaiser, Chair, KFHP Governance, Accountability and Nominating Committee

Attachment: Proof of Service

Enclosure: Notice to George Halvorson - August 22, 2006

Exhibits

1. Press Release. Sen. Chuck Grassley. 10/18/2006. UnitedHealth Group Stock Options Backdating Scandal.
2. October 27 & 29, 2003 Board of Directors Minutes KFHP
3. News Release: Kaiser Permanente. 12/26/2003. KFHP Selects KPMG as Independent Auditor.
4. KPMG International. Kaiser Permanente & KPMG.
5. Annual Report. Kaiser Permanente 2001-2002 (Improving Services for Disabled Members - pp.20-21.).
6. KFHP 10/4/2006 Letter to Robert Finney.  
KFHP 10/2/2006 Letter to Robert Finney.
7. Kaiser Permanente Medical Care Program – ADA Compliance –  
10/5/2006 Letter to Jacquelyn Finney.  
KFHP 10/5/2006 Letter to Jacquelyn Finney.  
KFHP 10/6/2006 Letter to Jacquelyn Finney
8. DOJ – Civil Rights Division – Investigation Procedures Manual  
Table of Contents and Tab 10. Retaliation & FOIA Paragraphs.

## **PROOF OF SERVICE**

I am over the age of 18 years and am readily familiar with the practice for collecting and processing of correspondence for Federal Express (FedEx) delivery and know that in the ordinary course of business practice the document described below will be deposited in a box or other facility regularly maintained by FedEx or delivered to an authorized courier or driver authorized by FedEx to receive documents on the same date that they are placed for collection.

### NOTICE

Corporate Governance Malfeasance  
Americans with Disabilities Act Fraud  
Sarbanes-Oxley Act Noncompliance

On the following, by placing one original thereof and two copies enclosed in three sealed shipment packages, with delivery fees provided for, addressed as follows for collection by FedEx at 1150 Garden View Road, Encinitas, CA 92024-9998.

Mr. J. Neal Purcell (Original)                      Airbill No. 7901 1435 2723  
Chair, KFHP Audit and Compliance Committee  
C/o Office of Board and Governance Services  
Kaiser Foundation Health Plan  
One Kaiser Plaza, 19<sup>th</sup> Floor  
Oakland, CA 94612

Mr. Thomas W. Chapman                              Airbill No. 7928 8215 6063  
Chair, KFHP Executive Committee  
C/o Office of Board and Governance Services  
Kaiser Foundation Health Plan  
One Kaiser Plaza, 19<sup>th</sup> Floor  
Oakland, CA 94612

Mr. Kim J. Kaiser                                      Airbill No. 7906 0594 2165  
Chair, KFHP Governance, Accountability and Nominating Committee  
C/o Office of Board and Governance Services  
Kaiser Foundation Health Plan  
One Kaiser Plaza, 19<sup>th</sup> Floor  
Oakland, CA 94612

Proof of Service - Page 2 of 2.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at Encinitas, California, this 14<sup>th</sup> day of November, 2006.

\_\_\_\_\_  
Robert D. Finney

(Typed)

\_\_\_\_\_  
(Signature)