

STATE OF OHIO
THE STATE MEDICAL BOARD
77 South High Street
17th Floor
Columbus, Ohio 43266-0315

(614)466-3934

September 14, 1990

Manuel E. Lopez, M.D.
1960 Ceripo St., AIT
Santa Maria Rio Piedra, PR 00927

Dear Doctor Lopez:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of the Minutes of the State Medical Board, meeting in regular session on September 12 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board.

Section 119.12, Ohio Revised Code, may authorize an appeal from this Order. Such an appeal may be taken to the Franklin County Court of Common Pleas only.

Such an appeal setting forth the Order appealed from and the grounds of the appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board of Ohio and the Franklin County Court of Common Pleas within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12 of the Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Henry G. Cramblett, M.D.
Secretary

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Enclosures

CERTIFIED MAIL RECEIPT NO. P 055 325 281
RETURN RECEIPT REQUESTED

Mailed 9/18/90

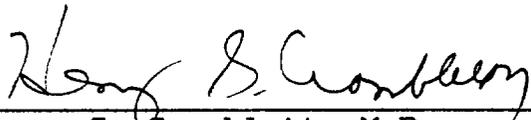
STATE OF OHIO
STATE MEDICAL BOARD

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; attached copy of the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, State Medical Board; and attached excerpt of Minutes of the State Medical Board, meeting in regular session on September 12, 1990, including Motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board, constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Manuel E. Lopez, M.D., as it appears in the Journal of the State Medical Board of Ohio.

This certification is made by authority of the State Medical Board of Ohio and in its behalf.

(SEAL)



Henry G. Cramblett, M.D.
Secretary

September 18, 1990

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

*

MANUEL E. LOPEZ, M.D.

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio the 12th day of September, 1990.

Upon the Report and Recommendation of Kevin P. Byers, Attorney Hearing Examiner, Medical Board, in this matter designated pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the approval and confirmation by vote of the Board on the above date, the following Order is hereby entered on the Journal of the State Medical Board for the above date.

It is hereby ORDERED:

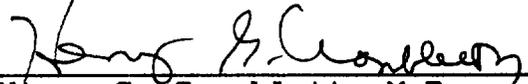
1. That the certificate of Manuel E. Lopez, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than thirty (30) days.
2. The State Medical Board shall not consider reinstatement of Dr. Lopez' certificate to practice unless and until all of the following minimum requirements are met:
 - a. Dr. Lopez shall submit an application for reinstatement, accompanied by appropriate fees.
 - b. On or before December 31, 1990, or as otherwise directed by the Board, Dr. Lopez shall provide documentation acceptable to the Board of his satisfactory completion of one hundred (100) hours of Category II C.M.E. for the period from January 1, 1987 to December 31, 1990, in addition to the twenty (20) hours for which he has already provided satisfactory documentation. Additionally, Dr. Lopez shall submit documentation of at least forty (40) hours of Category I C.M.E. for the period from January 1, 1989 to December 31, 1990.

Manuel E. Lopez, M.D.

- c. Dr. Lopez shall provide documentation acceptable to the Board of satisfactory completion of one hundred (100) hours of approved C.M.E., of which at least 40 hours shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.
 - d. In the event that Dr. Lopez has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, he shall be required to take and pass the SPEX, or any similar written examination which the Board in its discretion may deem appropriate to assess his clinical competency.
3. Subsequent to the reinstatement of his certificate, Dr. Lopez's certificate shall remain on probationary status for three (3) additional full biennial registration periods. During this probationary period, Dr. Lopez shall submit documentation acceptable to the Board of satisfactory completion of the requisite hours of Continuing Medical Education credits. Such documentation must be supplied to the Board within thirty (30) days of the end of each biennium.
 4. Upon successful completion of probation, Dr. Lopez' certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

(SEAL)


Henry G. Cramblett, M.D.
Secretary

September 18, 1990

Date

REPORT AND RECOMMENDATION
IN THE MATTER OF MANUEL E. LOPEZ, M.D.

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The Matter of Manuel E. Lopez, M.D., came on for hearing before me, Kevin P. Byers, Esq., Hearing Examiner for the State Medical Board of Ohio, on July 2, 1990.

INTRODUCTION AND SUMMARY OF EVIDENCE

I. Basis for Hearing

- A. By letter of May 10, 1990 (State's Exhibit #4), the State Medical Board notified Manuel E. Lopez, M.D., that it proposed to take action against his Ohio certificate to practice medicine and surgery based upon his failure to document his completion of the Continuing Medical Education (C.M.E.) credits required by Section 4731.281, Ohio Revised Code. In Dr. Lopez's renewal application for the 1989-1990 biennium, he certified that he had completed the requisite C.M.E. hours during the 1987-1988 biennium. However, he failed to provide a log of his Category II C.M.E. in response to the Board's audit requests. The Board in its letter alleged that such acts, conduct, and/or omissions constituted "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that clause is used in Section 4731.22(A), Ohio Revised Code; "publishing a false, fraudulent, deceptive or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code; and/or "[v]iolating or attempting to violate, directly or indirectly...any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code (Section 4731.22(B)(16) prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.
- B. By letter received by the State Medical Board on June 4, 1990 (State's Exhibit #3), Dr. Lopez constructively requested a hearing in this Matter.

II. Appearances

- A. On behalf of the State of Ohio: Anthony J. Celebrezze, Jr., Attorney General, by Rachel L. Belenker, Assistant Attorney General
- B. Having been duly notified of the time and place of hearing, Dr. Lopez appeared neither in person nor by any authorized representative.

III. Testimony Heard

None

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IV. Exhibits Examined

In addition to State's Exhibits #3 and #4, previously identified, the following exhibits were identified by the State and admitted into evidence in this Matter:

- A. State's Exhibit #1: June 18, 1990 letter to Dr. Lopez from the State Medical Board scheduling his formal hearing for July 2, 1990.
- B. State's Exhibit #2: June 6, 1990 letter to Dr. Lopez from the State Medical Board scheduling his formal hearing for June 18, 1990, but postponing it pursuant to Section 119.09, Ohio Revised Code.
- C. State's Exhibit #5: June 29, 1989 letter from the State Medical Board advising Dr. Lopez that he had been selected as part of a random audit and needed to submit documentation verifying his completion of forty (40) hours of Category I C.M.E., as well as a log of sixty (60) hours of Category II C.M.E. for the 1987-1988 biennium.
- D. State's Exhibit #6: July 28, 1989 letter to Dr. Lopez from the State Medical Board advising that no response to the Board's prior letter had been received and that he was again requested to submit documentation of his C.M.E.
- E. State's Exhibit #7: Letter and Category I C.M.E. log from Dr. Lopez, received by the State Medical Board on August 8, 1989.
- F. State's Exhibit #8: August 24, 1989 letter to Dr. Lopez from the State Medical Board advising that his log and documentation of Category I C.M.E. credits had been received but that he also needed to list forty (40) Category II C.M.E. credits.
- G. State's Exhibit #9: November 6, 1989 letter to Dr. Lopez from the State Medical Board advising that no response had been received from him regarding the August 24, 1989 request for Category II C.M.E. listings.
- H. State's Exhibit #10: Letter from Dr. Lopez, received by the State Medical Board on November 14, 1989, requesting a "waiver" until December 31, 1989 to enable him to complete the requisite C.M.E.
- I. State's Exhibit #11: November 21, 1989 letter to Dr. Lopez from the State Medical Board again requesting a log of Category II C.M.E. credits and including a hand-written explanation from the Chief of C.M.E., Records and Renewal.
- J. State's Exhibit #12: Documentation and a log of additional C.M.E. credits, submitted by Dr. Lopez and received by the State Medical Board on January 3, 1990. The documentation includes evidence of: 6 hours of Category II C.M.E. earned during the 1985-86 biennium; 43 hours of Category I C.M.E. earned in 1989; and the previously documented 60 hours of Category I C.M.E. earned during the 1987-1988 biennium.

STATEMENT OF FINDINGS
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- K. State's Exhibit #13: February 6, 1990 letter to Dr. Lopez from the State Medical Board explaining the type of listing needed to validate Dr. Lopez's Category II C.M.E. credits for the 1987-1988 biennium, and indicating enclosure of a booklet describing Category II C.M.E.
- L. State's Exhibit #14: The biennial renewal card signed by Dr. Lopez and dated October 1, 1988.

FINDINGS OF FACT

1. On his application for renewal of his Ohio license to practice medicine and surgery for the 1989-1990 biennium, Manuel E. Lopez, M.D., certified that he had completed the necessary C.M.E. hours during the last biennium. This certification was expressly made under penalty of the loss of Dr. Lopez's right to practice medicine and surgery in Ohio.

This fact is established by State's Exhibit #14.

2. By letter dated June 29, 1989, the State Medical Board notified Dr. Lopez that, as a result of a random audit, he would be required to provide documentation of his completion of at least forty (40) hours of Category I C.M.E. credits for the 1987-1988 biennium. He was also requested to submit a log of at least sixty (60) hours of Category II C.M.E. credits for the same biennium. Dr. Lopez did not respond to this initial notice from the Board.

On July 28, 1989, the Board sent a follow-up request for Dr. Lopez's C.M.E. documentation. By letter received by the Board on August 8, 1989, Dr. Lopez responded to the audit request and provided partial documentation of C.M.E. credits he had completed during the 1987-1988 biennium. On August 24, 1989, the Board sent Dr. Lopez a notice that his documentation was lacking forty (40) Category II C.M.E. credits. He was asked to list the forty (40) Category II credits to complete the audit requirement. On November 6, 1989, having received no response, the Board sent a follow-up request for a list of the forty (40) missing hours of Category II C.M.E. credit. The letter urged Dr. Lopez to contact the Board within ten (10) days to avoid possible disciplinary action. By letter received by the Board on November 14, 1989, Dr. Lopez requested a "waiver" until December 31, 1989 to enable him to complete the credits needed for the 1987-88 biennium.

These facts are established by State's Exhibits #5 through #10.

3. The Board in a November 21, 1989 letter to Dr. Lopez attempted to explain the type of documentation necessary for Category II C.M.E. credits. It also provided the name and phone number of a Board employee for Dr. Lopez to contact if he had any questions. By response received by the Board on

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January 3, 1990, Dr. Lopez provided additional documentation of C.M.E. earned in 1985, 1986, and 1989; however, he submitted no list of the lacking forty (40) Category II C.M.E. credits for the 1987-88 biennium. On February 6, 1990, the Board sent another letter to Dr. Lopez explaining the type of listing needed to satisfy the Category II audit requirements and enclosing a booklet describing Category II C.M.E. No further response was received from Dr. Lopez.

These facts are established by State's Exhibits #11 through #13.

CONCLUSIONS

Pursuant to Statute and Rule, the State Medical Board is authorized to conduct random audits of practitioners who certify during a renewal period that they have complied with C.M.E. requirements during the last biennium. Specifically, Rule 4731-10-08(A)(1), Ohio Administrative Code, states that those licensees who are randomly selected for audit "shall submit additional documentation of compliance with C.M.E. requirements as the Board may require". Furthermore, paragraph (A)(2) of this Rule mandates that "applicants shall keep detailed records of C.M.E. hours taken". These Rules contain the enabling procedures under the specific statutory provision, Section 4731.281, Ohio Revised Code, which grants the Board authority to "require a random sample of practitioners to submit materials documenting the completion of the Continuing Medical Education requirement during the preceding registration period."

Dr. Lopez was given numerous opportunities to provide complete C.M.E. documentation during the ten and one-half (10 1/2) months between the original audit notice and the citation letter. Dr. Lopez did adequately document the Category I C.M.E. credits required by the Board for the 1987-1988 biennium. As a matter of fact, he documented twenty (20) hours in excess of the minimum Category I C.M.E. requirement, which excess was credited toward his Category II requirement of sixty (60) hours for the biennium. However, Dr. Lopez, after repeated efforts by the Board to assist him and guide him in the documentation process, has been unable or unwilling to comply with the Board's request for a log listing an additional forty (40) hours of Category II C.M.E. credits for the biennium at issue. It would appear that there may be a misunderstanding by Dr. Lopez as to what activities constitute legitimate Category II credits. He need not provide extrinsic documentation of Category II credits, but is simply required to complete a log in the form of a journal which lists his Category II activities during the biennium.

Although Rule 4731-10-08(A), Ohio Administrative Code, affords Dr. Lopez the presumption of C.M.E. completion by the mere act of certification on the renewal card, subsection (B) of the Rule states that the presumption is rebutted when a physician fails to produce documentation of C.M.E. credits upon Board demand. Thus, it must be concluded, in the absence of documentation to the contrary, that Dr. Lopez has failed to complete the forty (40) Category II C.M.E. hours at issue. He has repeatedly failed to comply with the Board's requests for documentation of the credits as mandated by statute and rule.

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The State has proven by reliable, probative, and substantial evidence that Dr. Lopez's acts, conduct and/or omissions, as set forth in the above Findings of Fact, constitute:

1. "Fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the Board", as that clause is used in Section 4731.22(A), Ohio Revised Code;
2. "Publishing a false, fraudulent, deceptive or misleading statement", as that clause is used in Section 4731.22(B)(5), Ohio Revised Code, and;
3. "Violating or attempting to violate, directly or indirectly,...any provisions of this chapter or any rule promulgated by the Board", as that clause is used in Section 4731.22(B)(20), Ohio Revised Code (Section 4731.22(B)(16), prior to March 17, 1987), to wit: Section 4731.281, Ohio Revised Code, and Rules 4731-10-03 and 4731-10-08, Ohio Administrative Code.

PROPOSED ORDER

It is hereby ORDERED that:

1. The certificate of Manuel E. Lopez, M.D., to practice medicine and surgery in the State of Ohio, shall be SUSPENDED for an indefinite period of time, but not less than thirty (30) days.
2. The State Medical Board shall not consider reinstatement of Dr. Lopez' certificate to practice unless and until all of the following minimum requirements are met:
 - a. Dr. Lopez shall submit an application for reinstatement accompanied by appropriate fees.
 - b. On or before December 31, 1990, or as otherwise directed by the Board, Dr. Lopez shall provide documentation acceptable to the Board of his satisfactory completion of one hundred (100) hours of Category II C.M.E. for the period from January 1, 1987 to December 31, 1990, in addition to the twenty (20) hours for which he has already provided documentation. Additionally, Dr. Lopez shall submit documentation of at least forty (40) hours of Category I C.M.E. for the period from January 1, 1989 to December 31, 1990.
 - c. Dr. Lopez shall provide documentation acceptable to the Board of satisfactory completion of one hundred (100) hours of approved C.M.E., of which at least forty (40) hours shall be in Category I, for each complete biennium, if any, during which his certificate remains suspended after the 1989-1990 biennium.

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- d. In the event that Dr. Lopez has not been engaged in the active practice of medicine or surgery for a period of more than two (2) years prior to his application for reinstatement, he shall be required to take and pass the SPEX or any similar written examination which the Board in its discretion may deem appropriate to assess his clinical competency.
3. Subsequent to the reinstatement of his certificate, Dr. Lopez' certificate shall remain on probationary status for three (3) additional full biennial registration periods. During this probationary period, Dr. Lopez shall submit documentation acceptable to the Board of satisfactory completion of the requisite C.M.E. credits. Such documentation must be supplied to the Board within thirty (30) days of the end of each biennium.
4. Upon successful completion of probation, Dr. Lopez' certificate will be fully restored.

This Order shall become effective immediately upon the mailing of notification of approval by the State Medical Board of Ohio.

KEVIN P. BYERS
Kevin P. Byers
Attorney Hearing Examiner



STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF SEPTEMBER 12, 1990

REPORTS AND RECOMMENDATIONS

All Enforcement Coordinators left the meeting at this time.

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Dr. Kaplansky asked if each member of the Board had received, read, and considered the hearing record, the proposed findings, conclusions, and orders, and any objections filed in the matters of Manuel E. Lopez, M.D.; Richard W. Liss, M.D.; Edward B. Blackmon, M.D.; Jaime Blasquez, M.D.; and Mathew I. Charms, M.D. A roll call was taken:

ROLL CALL:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- aye
	Dr. Ross	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. Daniels	- aye
	Dr. Agresta	- aye
	Dr. Kaplansky	- aye

Mr. Jost stated that he did not read the record in the matter of Jaime Blasquez, M.D., due to a conflict of interest regarding this case.

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REPORT AND RECOMMENDATION IN THE MATTER OF MANUEL E. LOPEZ, M.D.

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DR. AGRESTA MOVED TO APPROVE AND CONFIRM MR. BYERS' PROPOSED FINDINGS OF FACT, CONCLUSIONS, AND ORDER IN THE MATTER OF MANUEL E. LOPEZ, M.D. DR. GRETTTER SECONDED THE MOTION.

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STATE MEDICAL BOARD OF OHIO

77 South High Street, 17th Floor • Columbus, Ohio 43266-0315 • (614) 466-3934

EXCERPT FROM THE MINUTES OF SEPTEMBER 12, 1990
IN THE MATTER OF MANUEL E. LOPEZ, M.D.

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A roll call vote was taken on Dr. Agresta's motion:

ROLL CALL VOTE:	Dr. O'Day	- aye
	Dr. Gretter	- aye
	Dr. Stephens	- aye
	Mr. Jost	- abstain
	Dr. Ross	- aye
	Dr. Rauch	- aye
	Mr. Albert	- aye
	Dr. Daniels	- aye
	Dr. Agresta	- aye

The motion carried.

STATE OF OHIO
THE STATE MEDICAL BOARD
77 SOUTH HIGH STREET
17TH FLOOR
COLUMBUS OH 43215

May 9, 1990

Manuel E. Lopez, M.D.
1960 Cereipo Street, AIT
Santa Maria Rio Piedra, PR 00927

Dear Doctor Lopez:

In accordance with Chapter 119., Ohio Revised Code, you are hereby notified that the State Medical Board of Ohio intends to determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery, or to reprimand or place you on probation for one or more of the following reasons:

- (1) In applying for registration of your certificate to practice medicine or surgery for the current registration period, you certified that you had completed during the last registration period (January 1, 1987 through December 31, 1988) the requisite hours of Continuing Medical Education (CME), as required by Section 4731.281, Ohio revised Code.
- (2) By letter dated June 29, 1989, and sent by certified mail you were notified by the State Medical Board that you are required to complete a log listing your CME for the 1987-1988 registration period, and to provide documentation that you had actually completed at least 40 hours of Category I CME credits. On August 8, 1989, the Board received your response which documented sixty (60) CME Category I credits. By letter dated August 24, 1989, and sent by certified mail, you were notified that you were required to log forty (40) CME Category II credits. By letter dated November 21, 1989 and sent by certified mail, you were again notified that you were required to complete the log by listing forty (40) CME Category II credits. On January 3, 1990, the Board received your response, in which you documented an additional forty-three (43) CME Category I credits taken after the biennium for which you were being audited. By letter dated February 6, 1990, and sent by certified mail, you were again notified of the necessity to log forty (40) hours of CME Category II credits obtained during the biennium in question. To date, the Board has received no response from you.

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May 9, 1990

- (3) Your response, or lack thereof, to the notices as detailed in the above Paragraph (2) establish that you did not complete the requisite hours of Continuing Medical Education, and/or that you failed to keep detailed records of CME taken.

The acts and/or omissions as alleged in the above paragraph (1), individually and/or collectively, constitute "fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board", as that clause is used in Section 4731.22(A), Ohio Revised Code.

Further, such acts, as alleged in the above paragraphs (1) through (3), individually and/or collectively, constitute "(v)iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board," as that clause is used in Section 4731.22(B)(20), Ohio Revised Code, (Section 4731.22(B)(16), Ohio Revised Code, prior to March 17, 1987) to wit: Section 4731.281, Ohio Revised Code, and Rule 4731-10-03 and Rule 4731-10-08, Ohio Administrative Code.

Pursuant to Chapter 119., Ohio Revised Code, you are hereby advised that you are entitled to a hearing in this matter. If you wish to request such hearing, the request must be made in writing and must be received in the offices of the State Medical Board within thirty (30) days of the time of mailing of this notice.

You are further advised that you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments, or contentions in writing, and that at the hearing you may present evidence and examine witnesses appearing for or against you.

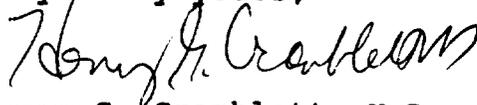
In the event that there is no request for such hearing received within thirty (30) days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand or place you on probation.

Manuel E. Lopez, M.D.
Page 3

May 9, 1990

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Henry G. Cramblett".

Henry G. Cramblett, M.D.
Secretary

HGC:jmb
Encls.

CERTIFIED MAIL #P 746 510 138
RETURN RECEIPT REQUESTED