

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

July 13, 2011

Janice Electa Green Douglas, M.D.
41 Haskell Drive
Bratenahl, OH 44108

RE: Case No. 10-CRF-048

Dear Doctor Douglas:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Danielle R. Blue, Esq., Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on July 13, 2011, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

Such an appeal must be commenced by the filing of a Notice of Appeal with the State Medical Board and the Franklin County Court of Common Pleas. The Notice of Appeal must set forth the Order appealed from and state that the State Medical Board's Order is not supported by reliable, probative, and substantive evidence and is not in accordance with law. The Notice of Appeal may, but is not required to, set forth the specific grounds of the appeal. Any such appeal must be filed within fifteen (15) days after the mailing of this notice and in accordance with the requirements of Section 119.12, Ohio Revised Code.

THE STATE MEDICAL BOARD OF OHIO



Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3938 3019 7792
RETURN RECEIPT REQUESTED

Cc: Earle C. Horton, Esq.
CERTIFIED MAIL NO. 91 7108 2133 3938 3019 7808
RETURN RECEIPT REQUESTED

Mailed 7-29-11

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Danielle R. Blue, Esq., State Medical Board Attorney Hearing Examiner; and excerpt of the Minutes of the State Medical Board, meeting in regular session on July 13, 2011, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Janice Electa Green Douglas, M.D., Case No. 10-CRF-048, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

July 13, 2011

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

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CASE NO. 10-CRF-048

JANICE ELECTA
GREEN DOUGLAS, M.D.

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ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on July 13, 2011.

Upon the Report and Recommendation of Danielle R. Blue, Esq., State Medical Board Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated within, and upon the modification, 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 of Ohio for the above date.

Rationale for Amendment: Doctor's assertion of sobriety is convincing and the unusual circumstances in play at the time she became non-compliant with the 2006 Board Order are not now in existence. As doctor did not comply with the terms of the 2006 Board Order, the terms of that Order are appropriate to be imposed once again for doctor's own safety.

- A. SUSPENSION OF CERTIFICATE:** The certificate of Janice Electa Green Douglas, 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 12 months.
- B. INTERIM MONITORING:** During the period that Dr. Douglas' certificate to practice medicine and surgery in Ohio is suspended, Dr. Douglas shall comply with the following terms, conditions, and limitations:
- Obey the Law:** Dr. Douglas shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 - Declarations of Compliance:** Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there had been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's

offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances:** Dr. Douglas shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

4. **Sobriety:**
 - a. **Abstention from Drugs:** Dr. Douglas shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependency and/or abuse and who may lawfully prescribe for her (for example, a physician who is not a family member). Further, in the event that Dr. Douglas is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Douglas shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Douglas received, the medical purpose for which she received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Dr. Douglas shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.

 - b. **Abstention from Alcohol:** Dr. Douglas shall abstain completely from the use of alcohol.

5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site:**
 - a. Dr. Douglas shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Douglas' drug(s) of choice.

 - b. Dr. Douglas shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term

“toxicology screen” is also used herein for “urine screen” and/or “drug screen.”)

All specimens submitted by Dr. Douglas shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Douglas shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Douglas shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph B.6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board’s retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
- e. Within 30 days of the effective date of this Order, Dr. Douglas shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or

collection site (“DFCS”) in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Douglas shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Douglas and the Board-approved DFCS. Dr. Douglas’ failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Douglas shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Douglas and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Douglas shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Douglas shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph B.6, below, as soon as practicable. Dr. Douglas shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefore.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

- 6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Douglas shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on

Dr. Douglas, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Douglas.

- a. Within 30 days of the date on which Dr. Douglas is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Douglas, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Douglas shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Douglas' residence or employment location, or to a physician who practices in the same locale as Dr. Douglas. Dr. Douglas shall ensure that the urine-screening process performed through the alternative DFCS or through the supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Douglas shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Douglas shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Douglas shall immediately notify the Board in writing. Dr. Douglas shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Douglas shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Douglas.

- d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Douglas' designated alternative DFCS or any person proposed to serve as her supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Douglas shall provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Douglas, or for any other purpose, at Dr. Douglas' expense. Dr. Douglas' refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.
9. **Rehabilitation Program:** Dr. Douglas shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance.
10. **Comply with the Terms of Aftercare Contract:** Dr. Douglas shall maintain continued compliance with the terms of the aftercare contract(s) entered into with her treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.

11. **Releases:** Dr. Douglas shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency, psychiatric condition, and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Douglas shall also provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event Dr. Douglas fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

12. **Psychiatric Assessment/Treatment:** Within sixty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Douglas shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Douglas' choice.

Upon approval by the Board, Dr. Douglas shall obtain from the approved psychiatrist an assessment of Dr. Douglas' current psychiatric status. The assessment shall take place no later than 60 days following such approval, unless otherwise determined by the Board. Prior to the initial assessment, Dr. Douglas shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to the psychiatrist.

Upon completion of the initial assessment, Dr. Douglas shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Douglas' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric and/or psychological treatment, if any, based upon the psychiatrist's informed assessment of Dr. Douglas' current needs;
- c. A statement regarding any recommended limitations upon her practice; and

- d. Any reports which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommended treatment, and upon approval by the Board of the treatment plan, Dr. Douglas shall undergo and continue psychiatric treatment at the rate of visits recommended by the approved treating psychiatrist, or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Douglas shall comply with her treatment plan, including taking medications as prescribed for her psychiatric disorder and submitting to periodic tests of her blood and/or urine.

Dr. Douglas shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Douglas' current treatment plan and any changes that have been made to the treatment plan since the prior report; her compliance with the treatment plan; her psychiatric status; her progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Douglas shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance.

Dr. Douglas shall ensure that her treating psychiatrist immediately notifies the Board of Dr. Douglas' failure to comply with her psychiatric treatment plan, and/or any determination that Dr. Douglas is unable to practice due to her psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Douglas shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Douglas shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to serve and the reasons therefore.

The Board, in its sole discretion, may disapprove any psychiatrist proposed to serve as Dr. Douglas' designated treating psychiatrist, or may withdraw its approval of any psychiatrist previously approved to serve as Dr. Douglas' designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

13. **Absences from Ohio:** Dr. Douglas shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence

shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Douglas resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Douglas may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Douglas is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

14. **Required Reporting of Change of Address:** Dr. Douglas shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions have been met:
1. **Application for Reinstatement or Restoration:** Dr. Douglas shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Compliance with Interim Conditions:** Dr. Douglas shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
 3. **Demonstration of Ability to Resume Practice:** Dr. Douglas shall demonstrate to the satisfaction of the Board that she can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Douglas has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall include, but shall not be

limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.

- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Douglas. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Douglas shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Douglas, and any conditions, restrictions, or limitations that should be imposed on Dr. Douglas' practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- 4. **Personal/Professional Ethics Course(s)**: At the time she submits her application for reinstatement or restoration, Dr. Douglas shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Douglas submits the documentation of successful completion of the course(s) dealing with personal/professional

ethics, she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to his practice of medicine in the future.

5. **Effect of Further Board Action During Suspension:** In the event that the Board initiates future formal proceedings against Dr. Douglas prior to her reinstatement, Dr. Douglas shall be ineligible for reinstatement until such future proceedings have been fully resolved by the Board.
 6. **SPEX:** No earlier than one year prior to submitting her application for reinstatement or restoration, Dr. Douglas shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. Douglas' clinical competency.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Douglas' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Douglas shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Modification of Terms:** Dr. Douglas shall not request modification of the terms, conditions or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 3. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Douglas is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Douglas' certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Douglas violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**

1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where she has privileges or appointments. Further, Dr. Douglas shall promptly provide a copy of this Order to all employers or entities with which she contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where she applies for or obtains privileges or appointments.

In the event that Dr. Douglas provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Douglas shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.
3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Douglas. This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.
4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Douglas shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of

receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.

H. SUPERCEDE PREVIOUS BOARD ORDER: Upon becoming effective, this Order shall supercede the terms and conditions of set forth in the June 14, 2006 Board Order.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.



Lance A. Talmage, M.D.

Secretary

(SEAL)

July 13, 2011

Date

STATE MEDICAL BOARD
OF OHIO

2011 MAY 23 AM 11: 33

BEFORE THE STATE MEDICAL BOARD OF OHIO

In the Matter of

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Case No. 10-CRF-048

Janice Electa Green Douglas, M.D.,

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Hearing Examiner Blue

Respondent.

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REPORT AND RECOMMENDATION

Basis for Hearing:

By letter dated May 12, 2010, the State Medical Board of Ohio [Board] notified Janice Electa Green Douglas, M.D., that it intended to determine whether to take disciplinary action against her certificate to practice medicine and surgery in Ohio based on her alleged violations of a 2006 Order issued by the Board. The Board alleged that Dr. Douglas: (1) failed to make personal appearances before the Board that were scheduled in November 2009 and April 2010; (2) failed to provide quarterly declarations to the Board due in January 2010 and April 2010; (3) failed to provide urine screening reports and supervising physician reports due in January 2010 and April 2010; and (4) failed to provide the Board with documentary evidence of continuing compliance in an alcohol or drug rehabilitation program due in January 2010 and April 2010.

The Board charged that the above-mentioned acts, conduct, and/or omissions, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as set forth in Ohio Revised Code Section [R.C.] 4731.22(B)(15). (State’s Exhibit [St. Ex.] 1A)

The Board received Dr. Douglas’ request for a hearing on June 1, 2010. (St. Ex. 1B)

Appearances:

Mike DeWine, Attorney General of Ohio, and Henry G. Appel, Assistant Attorney General, for the State of Ohio. Earle C. Horton, Esq., on behalf of Dr. Douglas.

Hearing Date: May 2, 2011

PROCEDURAL MATTERS

The Hearing Examiner placed Respondent’s Exhibits B-D under seal to protect the confidentiality of participants in Alcoholics Anonymous [A.A.]. Also, the Hearing Examiner redacted the names of the A.A. participants from the hearing transcript to ensure confidentiality.

SUMMARY OF THE EVIDENCE

All evidence admitted in this matter, even if not specifically mentioned, was thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background Information

1. Janice Electa Green Douglas, M.D., was initially licensed to practice medicine and surgery in Ohio in 1976. She currently holds an inactive license to practice in Ohio. (Ohio eLicense Center at <https://license.ohio.gov/lookup>, query on May 17, 2011)

2006 Step I Consent Agreement

2. On April 12, 2006, the Board approved a Step I Consent Agreement [Step I Consent Agreement] between Dr. Douglas and the Board. The Step I Consent Agreement, among other things, suspended her certificate to practice medicine and surgery in Ohio for an indefinite period of time, based upon her violation of R.C. 4731.22(B)(26). The Step I Consent Agreement was based, in part, on Dr. Douglas being found to be impaired in her ability to practice according to acceptable and prevailing standards of care because of habitual and excessive use or abuse of drugs, alcohol, or other substances that impair her ability to practice. The Step I Consent Agreement became effective on April 12, 2006. (St. Ex. 2 at 53-60)

July 2006 Entry of Order

3. On or about June 14, 2006, the Board issued an Entry of Order [July 2006 Order]. The July 2006 Order, among other things, permanently revoked Dr. Douglas' certificate to practice medicine and surgery in Ohio, then stayed such permanent revocation, and suspended her certificate for an indefinite period of time, but not less than three years, based upon her violation of R.C. 4731.22(B)(5), (B)(8), and (B)(9).¹ The July 2006 Order also imposed interim monitoring conditions, conditions for reinstatement or restoration, and subsequent probationary terms, conditions, and limitations for at least five years.

The July 2006 Order superceded the terms and conditions set forth in the Step I Consent Agreement. The July 2006 Order became effective on July 6, 2006, and remains in effect today.

(St. Ex. 2 at 3-11)

¹ In 2004, Dr. Douglas pled guilty to two felony counts of Mail Fraud and seven felony counts of Wire Fraud. (St. Ex. 2 at 12-33).

4. The July 2006 Order included the following provision in Paragraph (B)(2):

Dr. Douglas shall appear in person for quarterly interviews before the Board or its designated representative. The first such appearance shall take place on the date of her next appearance pursuant to her Step I Consent Agreement with the Board, which she entered in April 2006. Subsequent personal appearances must occur every three months thereafter or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

(St. Ex. 2 at 3-4)

5. The July 2006 Order included the following provision in Paragraph (B)(3):

Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the date that her next quarterly declaration is due pursuant to her Step I Consent Agreement of April 2006. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

(St. Ex. 2 at 3)

6. The July 2006 Order included the following provision in Paragraph (B)(6):

Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis.²

* * *

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this

² On May 14, 2009, the Board modified this provision by reducing the required drug screens to twice a month. (Tr. at 46)

Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

* * *

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration[s]. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

(St. Ex. 2 at 4-5)

7. The July 2006 Order also included the following provision in Paragraph (B)(9):

Dr. Douglas shall maintain participation in an alcohol and drug rehabilitation program, such as Alcoholics Anonymous, N.A., C.A., or Caduceus, no less than three times per week or as otherwise ordered by the Board. Substitution of any other program must receive prior Board approval. Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declarations.

(St. Ex. 2 at 5-6)

8. Dr. Douglas admitted that she has not complied with various provisions of the July 2006 Order since at least November 6, 2009. (Hearing Transcript [Tr.] at 17, 28)

Testimony from Danielle Bickers

9. Danielle Bickers, the Board's Compliance Supervisor, testified that she is familiar with Dr. Douglas. She testified that Dr. Douglas was in "substantial compliance" with the July 2006 Order until 2009. (Tr. at 38-39)
10. Ms. Bickers testified that on November 6, 2009, she received an e-mail with an attached letter from Dr. Douglas. The letter stated:

I am requesting to be removed from any consideration by the Medical Board. I am not planning to reapply for a medical license in Ohio at the present time and will, therefore, not appear for quarterly visits and am asking that my appointment previously scheduled for Monday, Nov 9th be cancelled.

Thank you for all you and your colleagues have assisted me with during the last 3 ½ years that I have been monitored for compliance with recommendations of the Board. If there is more that I need to do, please feel free to contact me.

I have notified David Sullivan @ OPHP of this decision and am forwarding a copy of this letter to them.

(Tr. at 39; St. Ex. 3)

Ms. Bickers testified that she has not had any contact with Dr. Douglas since receiving her e-mail. (Tr. at 41)

Dr. Douglas' Response

11. Dr. Douglas testified that she complied with the July 2006 Order for over three years. (Tr. at 23)
12. Dr. Douglas testified that she sent the November 6, 2009 e-mail to Ms. Bickers "because I needed to be in Nashville when my mother had passed." (Tr. at 17) She further explained why she sent the e-mail:

Because I was under so much stress with my mom's death, having lost my mother, my father. My mother and father had been married for 66 years. I was the only one left. I only had one sister who died of cancer a couple of years before. There was a lot of going on in my life at the time, uh, and that was not a focus. You know, I just wasn't thinking about [reinstatement] at the time.

(Tr. at 19)

13. Dr. Douglas further testified that she couldn't financially afford to continue to comply with the July 2006 Order. She explained that, in addition to the costs associated with complying with the July 2006 Order, she had to travel to Nashville often to care for her ailing mother and after her mother passed, she had to continue to travel to Nashville to handle her mother's affairs. (Tr. at 29-31)
14. Dr. Douglas testified that she has been sober for over five years. She further testified that she continued to attend A.A. meetings even though she did not comply with her July 2006 Board Order after November 2009. As evidence, Dr. Douglas submitted letters of support from her A.A. sponsor and colleagues. (Respondent's Exhibits [Resp. Exs.] B-D; Tr. at 22)
15. Dr. Douglas testified as to why she now wants to return to the practice of medicine:

I think I have a lot to offer. People let me know that I have a lot to offer that I talk to.

My expertise was not in general practice. I didn't have a shingle hanging out. My expertise is hypertension. I'm a researcher and I have a lot to offer in that regard. So having a license is important and I can see that now. I can see that now that I'm away from everything else that happened with all of the legal things, with all of the issues related to the alcoholism, the family issues, and all of that.

Now I think I am in a position that I can actually study and get ready to do something. Because taking a course in Ethics requires studying. Taking the kind of preparation that I would need to take to get ready for the SPEX, I'm able to do. If you can't concentrate, you can't study and it would just be a waste of time and money. But, you know, I feel like a different person now.

(Tr. at 32)

16. Dr. Douglas testified that she also is currently in a position financially in which she can begin to comply again with the 2006 Board Order. She further stated that the Board should give her another chance because "[t]here were unusual circumstances that were around the time that I stopped complying to the Order that are not in existence now." (Tr. at 34-35)
17. Dr. Douglas testified that she has not taken the SPEX, Ethics Course, and she has not received a psychiatric examination as required by the July 2006 Order.³ (Tr. at 15, 17-18)

FINDINGS OF FACT

1. On April 12, 2006, Janice Electa Green Douglas, M.D. entered into at Step I Consent Agreement with the Board, which suspended her certificate to practice medicine and surgery in Ohio for an indefinite period of time, based upon her violation of R.C. 4731.22(B)(26). The Step I Consent Agreement was based, in part, on Dr. Douglas being found to be impaired in her ability to practice according to acceptable and prevailing standards of care because of habitual and excessive use or abuse of drugs, alcohol, or other substances that impair her ability to practice. The Step I Consent Agreement became effective on April 12, 2006.

³ Ms. Bickers testified that Dr. Douglas could have submitted an application for restoration of her license if she had met all of the restoration terms listed in the July 2006 Order. (St. Ex. 2 at 7-9; Tr. at 39-40)

2. On June 14, 2006, the Board issued an Entry of Order [July 2006 Order] against Dr. Douglas. The July 2006 Order, among other things, permanently revoked her certificate to practice medicine and surgery in Ohio, then stayed such permanent revocation, and suspended her certificate for an indefinite period of time, but not less than three years, based upon her violation of R.C. 4731.22(B)(5), (B)(8), and (B)(9). The July 2006 Order also imposed interim monitoring conditions, conditions for reinstatement or restoration, and subsequent probationary terms, conditions, and limitations for at least five years.

The July 2006 Order superceded the terms and conditions set forth in the Step I Consent Agreement. The July 2006 Order became effective on July 6, 2006, and remains in effect today.

3. Dr. Douglas has failed to comply with Paragraph (B)(2) of the July 2006 Order. Paragraph (B)(2) of the July 2006 Order requires that Dr. Douglas make personal appearances before the Board or its designated representative. Dr. Douglas admits that she failed to make personal appearances before the Board or its designated representative scheduled for November 2009 and April 2010.
4. Dr. Douglas has failed to comply with Paragraph (B)(3) of the July 2006 Order since November 6, 2009. Paragraph (B)(3) of the July 2006 Order requires that Dr. Douglas provide quarterly declarations to the Board. Dr. Douglas admits that she failed to provide quarterly declarations to the Board that were due on January 1, 2010 and April 1, 2010.
5. Dr. Douglas has failed to comply with Paragraph (B)(6) of the July 2006 Order as modified by the Board in May 2009. Paragraph (B)(6) of the July 2006 Order, as modified, requires that Dr. Douglas provide urine screening reports and supervising physician reports. Dr. Douglas admits that she failed to provide the screenings reports and supervising physician reports to the Board that were due on January 1, 2010 and April 1, 2010.
6. Dr. Douglas has failed to comply with Paragraph (B)(9) of the July 2006 Order. Paragraph (B)(9) of the July 2006 Order requires that Dr. Douglas provide the Board with documentary evidence of continuing compliance with the A.A. program. Dr. Douglas admits that she failed to provide the Board with documentary evidence of continuing compliance with the A.A. program that were due on January 1, 2010 and April 1, 2010.

CONCLUSION OF LAW

This acts, conduct, and/or omissions of Dr. Douglas as set forth above in the Findings of Fact, individually and/or collectively, constitute a “[v]iolation of the conditions of limitation placed by the board upon a certificate to practice,” as set forth in R.C. 4731.22(B)(15).

DISCUSSION CONCERNING PROPOSED ORDER

It is undisputed that Dr. Douglas has failed to comply with the July 2006 Order since November 2009 and therefore, discipline for that noncompliance is justified.

However, the Hearing Examiner recommends that this Board give Dr. Douglas another chance to comply with the July 2006 Order and have the opportunity to request restoration in the future based on the following reasons. First, Dr. Douglas substantially complied with the July 2006 Order for over three years. In fact, *if* Dr. Douglas had met the conditions for restoration set forth in the Order, she *could have* submitted an application for restoration to the Board before November 2009. But, Dr. Douglas did not provide any evidence that she is ready to be relicensed yet. Second, Dr. Douglas' explanation as to why she stopped complying with the July 2006 Order was credible and sympathetic. Further, she testified that she has been sober for over five years and continues to attend A.A. meetings, which was verified by letters of support from her A.A. community. Finally, Dr. Douglas has expressed a strong desire to restore her medical certificate.

Accordingly, the Hearing Examiner recommends that this Board revoke Dr. Douglas' certificate to practice medicine and surgery in the State of Ohio. As such, Dr. Douglas has the opportunity to request restoration in the future at which time she can include evidence of current compliance with the July 2006 Order and include evidence that she meets all the conditions of restoration listed therein. At that time, the Board can determine appropriate terms and conditions for any further certificate, if needed.

PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Janice Electa Green Douglas, M.D., to practice medicine and surgery in the State of Ohio is REVOKED.

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


Danielle R. Blue, Esq.
Hearing Examiner

State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

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EXCERPT FROM THE DRAFT MINUTES OF JULY 13, 2011

REPORTS AND RECOMMENDATIONS AND PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Suppan announced that the Board would now consider the Reports and Recommendations, and the Proposed Findings and Proposed Order appearing on its agenda.

Dr. Suppan asked whether each member of the Board had received, read and considered the hearing records; the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Douglas B. Karel, M.D.; Rula Nadim Al-Aouar, M.D.; Steven Francis Brezny, M.D.; Allan William Clark, M.D.; Janice Electa Green Douglas, M.D.; Martin Escobar, M.D.; Philip M. Hutchison, D.O.; Melissa J. Marker, D.O.; and Larry Lee Smith, D.O. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

Dr. Suppan asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Dr. Talmage	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

Dr. Suppan noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further

participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert and Dr. Amato served as Supervising Member. In addition, Dr. Steinbergh served as Acting Secretary in the case of Steven Francis Brezny, M.D., and therefore she cannot vote in that matter.

Dr. Suppan reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....

JANICE ELECTA GREEN DOUGLAS, M.D., Case No. 10-CRF-048

.....

Dr. Talmage exited the meeting prior to this discussion.

.....

Dr. Steinbergh moved to approve and confirm Ms. Blue’s Findings of Fact, Conclusions of Law, and Proposed Order in the matter Janice Electa Green Douglas, M.D. Mr. Hairston seconded the motion.

.....

Dr. Steinbergh moved to amend the Proposed Order as follows:

- A. **SUSPENSION OF CERTIFICATE:** The certificate of Janice Electa Green Douglas, 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 12 months.
- B. **INTERIM MONITORING:** During the period that Dr. Douglas’ certificate to practice medicine and surgery in Ohio is suspended, Dr. Douglas shall comply with the following terms, conditions, and limitations:
 - 1. **Obey the Law:** Dr. Douglas shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 - 2. **Declarations of Compliance:** Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there had been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board’s offices on or before the first day of the third month following the month in which this Order

becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.

3. **Personal Appearances:** Dr. Douglas shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every three months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
4. **Sobriety:**
 - a. **Abstention from Drugs:** Dr. Douglas shall abstain completely from the personal use or personal possession of drugs, except those prescribed, dispensed, or administered to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependency and/or abuse and who may lawfully prescribe for her (for example, a physician who is not a family member). Further, in the event that Dr. Douglas is so prescribed, dispensed, or administered any controlled substance, carisoprodol, or tramadol, Dr. Douglas shall notify the Board in writing within seven days, providing the Board with the identity of the prescriber, the name of the drug Dr. Douglas received, the medical purpose for which she received the drug, the date the drug was initially received, and the dosage, amount, number of refills, and directions for use. Further, within 30 days of the date said drug is so prescribed, dispensed, or administered to her, Dr. Douglas shall provide the Board with either a copy of the written prescription or other written verification from the prescriber, including the dosage, amount, number of refills, and directions for use.
 - b. **Abstention from Alcohol:** Dr. Douglas shall abstain completely from the use of alcohol.
5. **Drug and Alcohol Screens; Drug Testing Facility and Collection Site:**
 - a. Dr. Douglas shall submit to random urine screenings for drugs and alcohol at least four times per month, or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug-testing panel utilized must be acceptable to the Secretary of the Board, and shall include Dr. Douglas' drug(s) of choice.
 - b. Dr. Douglas shall submit, at her expense and on the day selected, urine specimens for drug and/or alcohol analysis. (The term "toxicology screen" is also used herein for "urine screen" and/or "drug screen.")

All specimens submitted by Dr. Douglas shall be negative, except for those substances prescribed, administered, or dispensed to her in conformance with the terms, conditions and limitations set forth in this Order.

Refusal to submit such specimen, or failure to submit such specimen on the day she is selected or in such manner as the Board may request, shall constitute a violation of this Order.

- c. Dr. Douglas shall abstain from the use of any substance that may produce a positive result on a toxicology screen, including the consumption of poppy seeds or other food or liquid that may produce a positive result on a toxicology screen.

Dr. Douglas shall be held to an understanding and knowledge that the consumption or use of various substances, including but not limited to mouthwashes, hand-cleaning gels, and cough syrups, may cause a positive toxicology screen, and that unintentional ingestion of a substance is not distinguishable from intentional ingestion on a toxicology screen, and that, therefore, consumption or use of substances that may produce a positive result on a toxicology screen is prohibited under this Order.

- d. All urine screenings for drugs and alcohol shall be conducted through a Board-approved drug-testing facility and Board-approved collection site pursuant to the global contract between the approved facility and the Board, which provides for the Board to maintain ultimate control over the urine-screening process and to preserve the confidentiality of positive screening results in accordance with Section 4731.22(F)(5), Ohio Revised Code. The screening process for random testing shall require a daily call-in procedure. Further, in the event that the Board exercises its discretion, as provided in Paragraph B.6, below, to approve urine screenings to be conducted at an alternative drug-testing facility, collection site, and/or supervising physician, such approval shall be expressly contingent upon the Board's retaining ultimate control over the urine-screening process in a manner that preserves the confidentiality of positive screening results.
- e. Within 30 days of the effective date of this Order, Dr. Douglas shall enter into the necessary financial and/or contractual arrangements with the Board-approved drug-testing facility and/or collection site ("DFCS") in order to facilitate the screening process in the manner required by this Order.

Further, within 30 days of making such arrangements, Dr. Douglas shall provide to the Board written documentation of completion of such arrangements, including a copy of any contract entered into between Dr. Douglas and the Board-approved DFCS. Dr. Douglas' failure to timely complete such arrangements, or failure to timely provide written documentation to the Board of completion of such arrangements, shall constitute a violation of this Order.

- f. Dr. Douglas shall ensure that the urine-screening process performed through the Board-approved DFCS requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person.

In addition, Dr. Douglas and the Board-approved DFCS shall ensure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening result.

- g. Dr. Douglas shall ensure that the Board-approved DFCS provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
- h. In the event that the Board-approved DFCS becomes unable or unwilling to serve as required by this Order, Dr. Douglas shall immediately notify the Board in writing, and make arrangements acceptable to the Board, pursuant to Paragraph B.6, below, as soon as practicable. Dr. Douglas shall further ensure that the Board-approved DFCS also notifies the Board directly of its inability to continue to serve and the reasons therefore.
- i. The Board, in its sole discretion, may withdraw its approval of any DFCS in the event that the Secretary and Supervising Member of the Board determine that the DFCS has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

6. **Alternative Drug-testing Facility and/or Collection Site:** It is the intent of this Order that Dr. Douglas shall submit urine specimens to the Board-approved DFCS chosen by the Board. However, in the event that using the Board-approved DFCS creates an extraordinary hardship on Dr. Douglas, as determined in the sole discretion of the Board, then, subject to the following requirements, the Board may approve an alternative DFCS or a supervising physician to facilitate the urine-screening process for Dr. Douglas.

- a. Within 30 days of the date on which Dr. Douglas is notified of the Board's determination that utilizing the Board-approved DFCS constitutes an extraordinary hardship on Dr. Douglas, she shall submit to the Board in writing for its prior approval the identity of either an alternative DFCS or the name of a proposed supervising physician to whom Dr. Douglas shall submit the required urine specimens.

In approving a facility, entity, or an individual to serve in this capacity, the Board will give preference to a facility located near Dr. Douglas' residence or employment location, or to a physician who practices in the same locale as Dr. Douglas. Dr. Douglas shall ensure that the urine-screening process performed through the alternative DFCS or

through the supervising physician requires a daily call-in procedure, that the urine specimens are obtained on a random basis, and that the giving of the specimen is witnessed by a reliable person. In addition, Dr. Douglas shall ensure that the alternative DFCS or the supervising physician maintains appropriate control over the specimen and immediately informs the Board of any positive screening result.

- b. Dr. Douglas shall ensure that the alternative DFCS or the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, verifying whether all urine screens have been conducted in compliance with this Order, and whether all urine screens have been negative.
 - c. In the event that the designated alternative DFCS or the supervising physician becomes unable or unwilling to so serve, Dr. Douglas shall immediately notify the Board in writing. Dr. Douglas shall further ensure that the previously designated alternative DFCS or the supervising physician also notifies the Board directly of the inability to continue to serve and the reasons therefore. Further, in the event that the approved alternative DFCS or supervising physician becomes unable to serve, Dr. Douglas shall, in order to ensure that there will be no interruption in her urine-screening process, immediately commence urine screening at the Board-approved DFCS chosen by the Board, until such time, if any, that the Board approves a different DFCS or supervising physician, if requested by Dr. Douglas.
 - d. The Board, in its sole discretion, may disapprove any entity or facility proposed to serve as Dr. Douglas' designated alternative DFCS or any person proposed to serve as her supervising physician, or may withdraw its approval of any entity, facility or person previously approved to so serve in the event that the Secretary and Supervising Member of the Board determine that any such entity, facility or person has demonstrated a lack of cooperation in providing information to the Board or for any other reason.
7. **Reports Regarding Drug and Alcohol Screens:** All screening reports required under this Order from the Board-approved DFCS, the alternative DFCS and/or supervising physician must be received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.
8. **Additional Screening Without Prior Notice:** Upon the Board's request and without prior notice, Dr. Douglas shall provide a specimen of her blood, breath, saliva, urine, and/or hair for screening for drugs and alcohol, for analysis of therapeutic levels of medications that may be prescribed for Dr. Douglas, or for any other purpose, at Dr. Douglas' expense. Dr. Douglas' refusal to submit a specimen upon the request of the Board shall result in a minimum of one year of actual license suspension. Further, the collection of such specimens shall be witnessed by a representative of the Board, or another person acceptable to the Secretary and Supervising Member of the Board.

9. **Rehabilitation Program:** Dr. Douglas shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., or C.A., no less than three times per week, or as otherwise ordered by the Board. Substitution of any other specific program must receive prior Board approval.

Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance.

10. **Comply with the Terms of Aftercare Contract:** Dr. Douglas shall maintain continued compliance with the terms of the aftercare contract(s) entered into with her treatment provider(s), provided that, where terms of an aftercare contract conflict with terms of this Order, the terms of this Order shall control.

11. **Releases:** Dr. Douglas shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency, psychiatric condition, and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluation occurred before or after the effective date of this Order. To the extent permitted by law, the above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43, Ohio Revised Code, and are confidential pursuant to statute.

Dr. Douglas shall also provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event Dr. Douglas fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Order.

12. **Psychiatric Assessment/Treatment:** Within sixty days of the effective date of this Order, or as otherwise determined by the Board, Dr. Douglas shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Douglas' choice.

Upon approval by the Board, Dr. Douglas shall obtain from the approved psychiatrist an assessment of Dr. Douglas' current psychiatric status. The assessment shall take place no later than 60 days following such approval, unless otherwise determined by the Board. Prior to the initial assessment, Dr. Douglas shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to the psychiatrist.

Upon completion of the initial assessment, Dr. Douglas shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Douglas' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric and/or psychological treatment, if any, based upon the psychiatrist's informed assessment of Dr. Douglas' current needs;
- c. A statement regarding any recommended limitations upon her practice; and
- d. Any reports which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommended treatment, and upon approval by the Board of the treatment plan, Dr. Douglas shall undergo and continue psychiatric treatment at the rate of visits recommended by the approved treating psychiatrist, or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Douglas shall comply with her treatment plan, including taking medications as prescribed for her psychiatric disorder and submitting to periodic tests of her blood and/or urine.

Dr. Douglas shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The psychiatric reports shall contain information describing Dr. Douglas' current treatment plan and any changes that have been made to the treatment plan since the prior report; her compliance with the treatment plan; her psychiatric status; her progress in treatment; and results of any laboratory studies that have been conducted since the prior report. Dr. Douglas shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Douglas' declarations of compliance.

Dr. Douglas shall ensure that her treating psychiatrist immediately notifies the Board of Dr. Douglas' failure to comply with her psychiatric treatment plan, and/or any determination that Dr. Douglas is unable to practice due to her psychiatric disorder.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Douglas shall immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Douglas shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to serve and the reasons therefore.

The Board, in its sole discretion, may disapprove any psychiatrist proposed to serve as Dr. Douglas' designated treating psychiatrist, or may withdraw its approval of any psychiatrist previously approved to serve as Dr. Douglas' designated treating psychiatrist, in the event that the

Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

13. **Absences from Ohio:** Dr. Douglas shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the suspension/probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed. Further, the Secretary and Supervising Member of the Board shall have discretion to waive part or all of the monitoring terms set forth in this Order for occasional periods of absence of 14 days or less.

In the event that Dr. Douglas resides and/or is employed at a location that is within 50 miles of the geographic border of Ohio and a contiguous state, Dr. Douglas may travel between Ohio and that contiguous state without seeking prior approval of the Secretary or Supervising Member provided that Dr. Douglas is otherwise able to maintain full compliance with all other terms, conditions and limitations set forth in this Order.

14. **Required Reporting of Change of Address:** Dr. Douglas shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Douglas shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Douglas shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order.
3. **Demonstration of Ability to Resume Practice:** Dr. Douglas shall demonstrate to the satisfaction of the Board that she can practice in compliance with acceptable and prevailing standards of care. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25, Ohio Revised Code, that Dr. Douglas has successfully completed a minimum of 28 days of inpatient/residential treatment for chemical dependency/abuse at a treatment provider approved by the Board.
 - b. Evidence of continuing full compliance with an aftercare contract with a treatment provider approved under Section 4731.25, Ohio Revised Code. Such evidence shall

include, but shall not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with Rule 4731-16-10, Ohio Administrative Code.

- c. Evidence of continuing full compliance with this Order.
- d. Two written reports indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care, with respect to chemical dependency/abuse.

The reports shall have been made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Douglas. Further, the two aforementioned physicians shall not be affiliated with the same treatment provider or medical group practice. Prior to the assessments, Dr. Douglas shall provide the assessors with copies of patient records from any evaluation and/or treatment that she has received, and a copy of this Order. The reports of the assessors shall include any recommendations for treatment, monitoring, or supervision of Dr. Douglas, and any conditions, restrictions, or limitations that should be imposed on Dr. Douglas' practice. The reports shall also describe the basis for the assessor's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement or restoration. Further, at the discretion of the Secretary and Supervising Member of the Board, the Board may request an updated assessment and report if the Secretary and Supervising Member determine that such updated assessment and report is warranted for any reason.

- 4. **Personal/Professional Ethics Course(s)**: At the time she submits her application for reinstatement or restoration, Dr. Douglas shall submit acceptable documentation of successful completion of a course or courses dealing with personal/professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any course(s) taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Douglas submits the documentation of successful completion of the course(s) dealing with personal/professional ethics, she shall also submit to the Board a written report describing the course(s), setting forth what she learned from the course(s), and identifying with specificity how she will apply what she has learned to his practice of medicine in the future.

5. **Effect of Further Board Action During Suspension:** In the event that the Board initiates future formal proceedings against Dr. Douglas prior to her reinstatement, Dr. Douglas shall be ineligible for reinstatement until such future proceedings have been fully resolved by the Board.
 6. **SPEX:** No earlier than one year prior to submitting her application for reinstatement or restoration, Dr. Douglas shall take and pass the SPEX examination or any similar written examination which the Board may deem appropriate to assess Dr. Douglas' clinical competency.
- D. **PROBATION:** Upon reinstatement or restoration, Dr. Douglas' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Douglas shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 2. **Modification of Terms:** Dr. Douglas shall not request modification of the terms, conditions or limitations of probation for at least one year after imposition of these probationary terms, conditions, and limitations.
 3. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Douglas is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Douglas' certificate will be fully restored.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Douglas violates the terms of this Order in any respect, the Board, after giving her notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of her certificate.
- G. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training; and the Chief of Staff at each hospital or healthcare center where she has privileges or appointments. Further, Dr. Douglas shall promptly provide a copy of this Order to all employers or entities with which she contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where she applies for or obtains privileges or appointments.

In the event that Dr. Douglas provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.

2. **Required Reporting to Other State Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Agency, through which he currently holds any license or certificate. Also, Dr. Douglas shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which she applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.
 3. **Required Reporting to Treatment Providers/Monitors:** Within 30 days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all persons and entities that provide chemical dependency/abuse treatment to or monitoring of Dr. Douglas. This requirement shall continue until Dr. Douglas receives from the Board written notification of the successful completion of her probation.
 4. **Required Documentation of the Reporting Required by Paragraph G:** Dr. Douglas shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.
- H. **SUPERCEDE PREVIOUS BOARD ORDER:** Upon becoming effective, this Order shall supercede the terms and conditions of set forth in the June 14, 2006 Board Order.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

Dr. Stephens seconded the motion. A vote was taken:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

The motion to amend carried.

.....

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter Janice Electa Green Douglas, M.D. Dr. Mahajan seconded the motion.

.....

A vote was taken on Dr. Steinbergh's motion to approve:

ROLL CALL:	Dr. Strafford	- aye
	Mr. Hairston	- aye
	Dr. Stephens	- aye
	Dr. Mahajan	- aye
	Dr. Steinbergh	- aye
	Dr. Suppan	- aye
	Dr. Madia	- aye
	Ms. Elsass	- aye
	Dr. Ramprasad	- aye

The motion to approve carried.



State Medical Board of Ohio

30 E. Broad Street, 3rd Floor, Columbus, OH 43215-6127

Richard A. Whitehouse, Esq.
Executive Director

(614) 466-3934
med.ohio.gov

May 12, 2010

Case number: 10-CRF- 048

Janice Electa Green Douglas, M.D.
41 Haskell Drive
Bratenahl, OH 44108

Dear Doctor Douglas:

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

- (1) On or about July 13, 2005, the Board issued to you a Notice of Opportunity for Hearing, which alleged that you had pled guilty to two felony counts of Mail Fraud and seven felony counts of Wire Fraud, and that you were in violation of Sections 4731.22(B)(5), (B)(8), and (B)(9), Ohio Revised Code.

On or about April 12, 2006, you entered into a Step I Consent Agreement with the Board [April 2006 Step I Consent Agreement], which suspended your certificate for an indefinite period of time. The April 2006 Step I Consent Agreement was based on your violation of Section 4731.22(B)(26), Ohio Revised Code, in that you were impaired in your ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

- (2) On or about June 14, 2006, the Board issued an Entry of Order, with an effective date of July 6, 2006 [July 2006 Order], that permanently revoked your certificate to practice medicine and surgery, stayed such permanent revocation, and suspended your certificate for an indefinite period of time, but not less than three years. The July 2006 Order also imposed interim monitoring conditions, conditions for reinstatement or restoration, and subsequent probationary terms, conditions, and limitations for at least five years, based on your violation of Sections 4731.22(B)(5), (B)(8), and (B)(9), Ohio Revised Code.

Mailed 5-13-10

The July 2006 Order superseded the terms and conditions set forth in the April 2006 Step I Consent Agreement. To date, you are subject to all the terms, conditions and limitations of the Board's July 2006 Order, a copy of which is attached hereto and incorporated.

- (3) Paragraph B.2. of the July 2006 Order specifies that you are to make quarterly personal appearances before the full Board or its designated representative.

Despite this provision, you have failed to make personal appearances before the Board or its designated representative, which appearances were scheduled for in or around November 2009 and April 2010.

- (4) Paragraph B.3. of the July 2006 Order provides that you "shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order," and the "quarterly declarations must be received in the Board's offices on or before the first day of every third month."

Despite this provision, you have failed to provide and/or timely provide quarterly declarations to the Board. For example, you have not provided and/or timely provided the quarterly declarations that were due in the Board's office on or about January 1, 2010, and April 1, 2010.

- (5) Paragraph B.6. of the July 2006 Order provides, in pertinent part, as follows:

Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis.

* * *

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

* * *

All screening reports and supervising physician reports

required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

On or about May 14, 2009, the Board modified your probationary terms by granting your request to reduce required drug screens to twice a month.

Despite the aforementioned provisions, you have failed to provide and/or timely provide the screening reports and supervising physician reports that were due on or about January 1, 2010, and April 1, 2010.

- (6) Paragraph B.9. of the July 2006 Order requires you to maintain participation in an alcohol and drug rehabilitation program no less than three times per week, and you "shall submit acceptable documentary evidence of continuing compliance with this program, including submission to the Board of meeting attendance logs, which must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declarations."

Despite the aforementioned provisions in the July 2006 Order, you have failed to provide and/or timely provide the Board with documentary evidence of continuing compliance with the program. For example, you have failed to provide and/or timely provide documentation that was due on or about January 1, 2010, and April 1, 2010.

Your acts, conduct, and/or omissions as alleged in paragraphs (2) through (6) above, individually and/or collectively, constitute a "[v]iolation of the conditions of limitation placed by the board upon a certificate to practice," as that clause is used in Section 4731.22(B)(15), Ohio Revised 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 days of the time of mailing of this notice.

You are further advised that, if you timely request a hearing, 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 this 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.

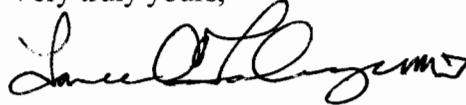
In the event that there is no request for such hearing received within thirty days of the time of mailing of this notice, the State Medical Board may, in your absence and upon consideration of this matter, determine whether or not to limit, revoke, permanently

revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, Section 4731.22(L), Ohio Revised Code, provides that “[w]hen the board refuses to grant a certificate to an applicant, revokes an individual’s certificate to practice, refuses to register an applicant, or refuses to reinstate an individual’s certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate.”

Copies of the applicable sections are enclosed for your information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lance A. Talmage, M.D.", with a stylized flourish at the end.

Lance A. Talmage, M.D.
Secretary

LAT/MRB/flb
Enclosures

CERTIFIED MAIL #91 7108 2133 3936 3071 5424
RETURN RECEIPT REQUESTED

FINAL ~~APPEALABLE~~ ORDER

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO
GENERAL DIVISION

TERMINATION NO.	10
BY:	MK 5/31/07

JANICE E. GREEN DOUGLAS, M.D.,]

CASE NO. 06CVF07-9215

Appellant,]

JUDGE BENDER

vs.]

STATE MEDICAL BOARD OF OHIO,]

Appellee.]

**DECISION AND ENTRY ON MERITS OF REVISED CODE 119.12 ADMINISTRATIVE
APPEAL, AFFIRMING ORDER ISSUED BY STATE MEDICAL BOARD
OF OHIO ON JULY 6, 2006**

Rendered this _____ day of May 2007.

BENDER, J.

This case is a Revised Code 119.12 administrative appeal, by Janice E. Green Douglas, M.D. (Appellant), from an Order that the State Medical Board of Ohio issued on July 6, 2006, permanently revoking Appellant's certificate to practice medicine and surgery in Ohio, staying the revocation, and suspending the certificate for a minimum of three years, with conditions for reinstatement. The record that the Board has certified to the Court reflects the following facts, which are undisputed.

On October 21, 2004, in the United States District Court for the District of Massachusetts, Appellant pled guilty to two felony counts of Mail Fraud, in violation of Section 1341, Title 18, U.S. Code, and seven felony counts of Wire Fraud, in violation of Section 1343, Title 18, U.S. Code. *State's Exhibit (Ex.) 3*. In Appellant's written plea agreement, she acknowledged, "[Appellant] expressly and unequivocally admits that

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 FRANKLIN CO. OHIO
 2007 MAY 31 PM 1:00
 CLERK OF COURTS

she, in fact, knowingly, intentionally and willfully committed the crimes charged in those counts of the [indictment], and is, in fact, guilty of those offenses." *Id.* On March 31, 2005, the U.S. District Court found Appellant guilty of all nine felonies and sentenced her to serve two years of probation, with conditions that included alcohol treatment, mental health counseling, and community service, and to pay a fine of \$7,500 and a special assessment of \$900. *State's Ex. 4.*

Appellant's criminal conduct, which led to her guilty plea and the judicial finding of guilt, was summarized as follows by the Hearing Examiner who conducted a hearing on December 15, 2005 on behalf of the State Medical Board of Ohio. *Hearing Examiner's Report and Recommendation, May 23, 2006 (R.R.).*

In 2002, Appellant exploited her position as a physician, medical researcher, and professor at the Case Western Reserve University School of Medicine, where she was the chief of the Division of Hypertension. *R.R., Finding of Fact 3.* Appellant knowingly helped a friend obtain millions of dollars' worth of computer equipment at a steeply discounted price, by falsely leading the computer manufacturer to believe that Appellant and Case Western were buying the equipment for a large research project to test a new drug. *Id.* Appellant participated in a telephone conference with the computer manufacturer's representative to describe Appellant's position at the medical school and her research work, in order to lend legitimacy to the scheme. *Id.* Appellant signed a fraudulent request for a price quotation that had been falsified to look like an official University document. *Id.* Appellant knew that the computer equipment was not being purchased by the University for medical research, and that the equipment was slated for

commercial resale at a substantial profit. *Id.* Appellant arranged for her share of the profits to be paid, indirectly, to a family member. *Id.*

By letter dated July 13, 2005, the State Medical Board of Ohio notified Appellant that the Board proposed to take disciplinary action against Appellant's medical license, arising out of the conduct described above. *State's Ex. 1A.* The Medical Board charged Appellant with making false, fraudulent, deceptive, or misleading statements in relation to the practice of medicine and surgery, as that clause is used in R.C. 4731.22(B)(5); with obtaining, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice, as that clause is used in R.C. 4731.22(B)(8); and with pleading guilty to a felony or being found guilty of a felony, as that clause is used in R.C. 4731.22(B)(9). *Id.*

On December 15, 2005, at Appellant's request, a Hearing Examiner conducted an evidentiary hearing on the Medical Board's proposed action. Appellant testified, and a number of exhibits were admitted into evidence, offered by Appellant and by the State. After the hearing, at Appellant's request, the Hearing Examiner postponed issuing a Report and Recommendation to the Board, because Appellant anticipated that the Board would issue an additional notice of opportunity for hearing to Appellant, alleging impairment under R.C. 4731.22(B)(26).

In March 2006, the Medical Board ordered Appellant to submit to an evaluation at the Shepherd Hill behavioral health facility, a Board-approved treatment provider in Newark, Ohio, to determine whether she was in violation of R.C. 4731.22(B)(26), the provision authorizing disciplinary action due to impairment. *Board Ex. 1.* As a result of that evaluation, Appellant was diagnosed with alcohol dependence and was determined

to be impaired in her ability to practice medicine and surgery. *Id.* In March 2006, Appellant entered a residential treatment program at Shepherd Hill. *Id.*

On April 12, 2006, Appellant entered into a Step I Consent Agreement with the Medical Board, in lieu of proceedings pursuant to R.C. 4731.22(B)(26). *Board Ex. 1.* Pursuant to that agreement, the Board suspended Appellant's medical license for an indefinite period, with conditions for reinstatement. *Id.*

On May 16, 2006, Appellant moved the Hearing Examiner to reopen the record from the December 15, 2005 hearing, for the purpose of admitting additional evidence, specifically the Step I Consent Agreement, and a report from Shepherd Hill. *Board Ex. 3.* Appellant requested that the Medical Board consider such evidence of Appellant's alcohol impairment when determining the appropriate sanction for Appellant. *R.R. p. 3.* Without objection by the State, the Hearing Examiner granted Appellant's motion, reopened the record, admitted the additional evidence, and closed the record on May 17, 2006. *Board Ex. 4; R.R. p. 3.*

On May 23, 2006, the Hearing Examiner issued a Report and Recommendation in which the Hearing Examiner rendered factual findings and legal conclusions, none of which Appellant has challenged, either before the Medical Board or in this appeal. The Hearing Examiner concluded that Appellant violated R.C. 4731.22(B)(5), (8), and (9), as originally charged by the July 13, 2005 notice of opportunity for hearing. *R.R., Conclusions of Law 2–4.* The Hearing Examiner recommended that the Board permanently revoke Appellant's certificate to practice medicine and surgery in Ohio, that the Board stay the revocation, and that the Board suspend the certificate for a minimum of two years, with conditions for reinstatement. *R.R., Proposed Order.* In making the

recommendation that the Board not permanently revoke Appellant's medical license, the Hearing Examiner explained:

Throughout the hearing, Dr. Douglas appeared to lack a genuine understanding of the fact that she had engaged in blatantly dishonest conduct. When questioned about participating in an obviously fraudulent scheme, Dr. Douglas appeared to be confused as to how it had happened.

The simple, inescapable truth is that no reasonable person, no matter how busy or distracted, would believe that such a scheme was legal. Here, Dr. Douglas was and is a sophisticated, intelligent person. Consequently, there appeared no choice after the hearing but to recommend a permanent revocation of her certificate based on the criminal conduct related to her medical work. Dr. Douglas' lack of progress toward comprehending her behavior was a troublesome factor that could not be ignored.

However, after the hearing, new evidence was admitted. Dr. Douglas has been diagnosed with alcohol dependence that had caused impairment. In addition, in April 2006, Dr. Douglas had entered into a Step I Consent Agreement with the Board in lieu of formal proceedings for violation of R.C. 4731.22(B)(26). The agreement reflects the Board's belief that Dr. Douglas' condition is treatable and that the potential for recovery exists.

Accordingly, the Hearing Examiner recommends against permanent revocation for several reasons. First, Dr. Douglas has made significant contributions to medical research and education, and has served a minority population that has been underserved in both research and treatment. The loss of Dr. Douglas' medical license would preclude her from full participation in the type of research she has performed laudably in the past.

Second, Judge Saris in the federal trial court recommended against permanent revocation. Her opinion, while having no binding effect whatsoever in this forum, is nonetheless a factor for consideration. Judge Saris presided over two trials, observing Dr. Douglas for many weeks and hearing every word of testimony. Based on all the circumstances, the judge was moved to be lenient in sentencing and to express her hope that the State of Ohio would not permanently revoke Dr. Douglas' medical license.

Third, the Step I Consent Agreement indicates that Dr. Douglas suffers from a treatable condition and impairment from which she may recover. This impairment appears to have contributed to Dr. Douglas' criminal conduct. While the condition does not excuse her conduct in any way, the

Board may consider her condition as a mitigating factor when determining the appropriate sanction.

R.R. pp. 14-15. Appellant filed objections to the Hearing Examiner's Report and Recommendation. However, as stated above, she did not challenge any of the Hearing Examiner's factual findings or legal conclusions.

On June 14, 2006, the Medical Board met to consider the Hearing Examiner's Report and Recommendation. Appellant and her attorney addressed the Board, as did the Assistant Attorney General. In an Order entered on June 14, 2006, the Board adopted the Hearing Examiner's unchallenged factual findings and legal conclusions, permanently revoked Appellant's certificate to practice medicine and surgery in Ohio, stayed the revocation, and suspended the certificate for a minimum of three years, with conditions for reinstatement. On July 6, 2006, the Board mailed its Order to Appellant.

This appeal followed.

In an administrative appeal pursuant to R.C. 119.12, the trial court reviews an order to determine whether it is supported by reliable, probative, and substantial evidence and is in accordance with law. *Lonergan v. State Med. Bd.*, Franklin App. No. 06AP-800, 2006-Ohio-6790, at ¶7; *Slingluff v. State Med. Bd.*, Franklin App. No. 05AP-918, 2006-Ohio-3614, at ¶7. In *Our Place, Inc. v. Ohio Liquor Control Comm.* (1992), 63 Ohio St. 3d 570, 571, the Supreme Court of Ohio held:

The evidence required by R.C. 119.12 can be defined as follows: (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. *** (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. *** (3) "Substantial" evidence is evidence with some weight; it must have importance and value. ***

Revised Code 4731.22(B) provides:

§ 4731.22. Grounds for discipline ***

(B) The board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's certificate to practice, refuse to register an individual, refuse to reinstate a certificate, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(5) Making a false, fraudulent, deceptive, or misleading statement *** in relation to the practice of medicine and surgery ***.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to [or] a judicial finding of guilt of *** a felony[.]

It is undisputed that, as described above, Appellant made false, fraudulent, deceptive, or misleading statements in relation to the practice of medicine and surgery, that she obtained or attempted to obtain money by fraudulent misrepresentations in the course of practice, and that she pled guilty to and was found guilty of nine felonies. The record therefore contains reliable, probative, and substantial evidence that Appellant engaged in conduct that was prohibited by R.C. 4731.22(B)(5), (8), and (9). Accordingly, pursuant to R.C. 4731.22(B), the Board was authorized to limit, revoke, or

suspend Appellant's medical license, and/or to reprimand her or place her on probation. The Board's July 6, 2006 Order is therefore supported by reliable, probative, and substantial evidence and is in accordance with law.

Appellant, however, has asserted several arguments in support of this appeal, the first of which is that the Medical Board did not comply with R.C. 119.07 which, Appellant claims, obligated the Board to articulate its reasons for increasing the period of Appellant's license suspension from the two years recommended by the Hearing Examiner to the three years ultimately imposed by the Board. Revised Code 119.07, however, creates no such obligation on the part of the Board. To the contrary, R.C. 119.07 merely sets forth the statutory requirements for the issuance of a notice of opportunity for hearing.

Revised Code 119.09, on the other hand, does provide, "[I]f the agency modifies or disapproves the recommendations of the referee or examiner it shall include in the record of its proceedings the reasons for such modification or disapproval." Thus, this statute obligates the Medical Board to state its reasons if it modifies a hearing examiner's recommendation as to the sanction to be imposed. The statute is complied with when the Board's minutes reveal its reasons for modifying a hearing examiner's recommendation. *Slingluff, supra*, at ¶14.

The Court has reviewed the minutes of the Medical Board meeting on June 14, 2006, when the Board decided, after lengthy discussion, to increase the period of Appellant's license suspension from two years to three years. Those minutes, reproduced below in an endnote, amply demonstrate that the Board articulated, in great detail, why it decided to increase the period of Appellant's license suspension.ⁱ It is

evident, from those minutes, that the Board concluded that a two-year license suspension was too lenient, but that permanent license revocation was too harsh. The Board concluded that Appellant exercised extremely poor judgment that led her to make very bad decisions, that she committed intentional and egregious acts that she absolutely knew were wrong, and that she never truly accepted responsibility for her felonious conduct. The Board concluded that Appellant's alcoholism was not a mitigating factor in her commission of the nine felonies, and that Appellant was merely using her alcoholism as an excuse for her criminal conduct, in order to persuade the Board to impose a lesser sanction. The Board concluded that, if permanent license revocation were too harsh a sanction for Appellant, then a longer license suspension period was needed to protect the public and to have meaning for Appellant.

The Court concludes that the Board articulated its reasons for increasing the period of Appellant's license suspension from the two years recommended by the Hearing Examiner to the three years ultimately imposed by the Board. The Board therefore fulfilled its obligations under R.C. 119.09, and Appellant's first argument in support of this appeal is not well taken.

Appellant's second argument in support of this appeal is that, during the Board meeting on June 14, 2006, Dr. Varyani made two "misstatements of fact" that "tainted" the Board's deliberations. Specifically, Appellant asserts that the following comments by Dr. Varyani were inaccurate:

Dr. Varyani stated that *** at one point representatives of the computer company actually talked to Dr. Douglas and asked her whether the computers were for the use of University Hospitals of Cleveland. Not only did Dr. Douglas telephonically say yes that they were for the use of University Hospitals of Cleveland, but she wrote a letter from her office, on University Hospital stationery, and said, "yes." ***

Board Minutes, June 14, 2006, p. 16019. Dr. Varyani's statements were not, however, inaccurate. First of all, the Medical Board's minutes are not verbatim, but paraphrase the Board's members' statements. *Slingluff, supra*, at ¶17. Secondly, when Appellant pled guilty to the nine felony counts on October 21, 2004, the following factual allegations from the indictment were incorporated by reference into the counts to which she entered pleas:

12. It was further part of the scheme for the defendants to collaborate on the preparation of documents needed to complete the purchase of equipment from Compaq. These included a letter from DOUGLAS requesting a price quote, a letter explaining the purpose of the equipment, a detailed part list, and after Compaq provided a price quote, a purchase order and cover letter from DOUGLAS on Case Western Reserve University letterhead.

13. It was further part of the scheme for DOUGLAS, SALLEE, and MCINTOSH, on or about February 18, 2002, to engage in a telephone conversation with a representative of Compaq to answer questions about the purchase. The defendants confirmed that the equipment was for a Case Western Reserve University Medical School project.

14. It was further part of the scheme for the defendants to issue a purchase order, dated February 25, 2002, to Compaq for thousand of items of computer equipment on behalf of Case Western Reserve University, at a purchase price of \$3,148,200.

15. The February 25, 2002 cover letter, which DOUGLAS, ostensibly on behalf of Case Western Reserve University, sent to Compaq, instructed Compaq that "our systems contractor for the project, S Systems, Inc., is authorized to accept delivery of the equipment. Questions regarding the equipment order should be directed to S Systems for resolution and handling..."

State's Exs. 2-3. Accordingly, Dr. Varyani did not misstate the facts, and Appellant's second argument in support of this appeal is not well taken.

Appellant's third, and final, argument in support of this appeal is that the Medical Board violated her due process rights. Due process rights guaranteed by the United

States and Ohio Constitutions apply in administrative proceedings. *Lonergan, supra*, at ¶9. The fundamental requirement of procedural due process is notice and a hearing, that is, an opportunity to be heard. *Id.* Due process requires that an individual be given an opportunity for a hearing before being deprived of a significant property interest. *Id.* It is undisputed that, in the proceedings below, Appellant was provided with an opportunity for a hearing before the Board, which was conducted by the Hearing Examiner on December 15, 2005.

Appellant, however, contends that her due process rights were violated at the Board meeting on June 14, 2006. At that meeting, Dr. Egnor criticized Appellant for not presenting evidence of her alcoholism to the Hearing Examiner on December 15, 2005. Appellant contends that her due process rights were violated because the Board President would not then yield the floor to Appellant's attorney to address that issue. Appellant asserts that, if the Board President had permitted Appellant's attorney to speak at that time, the attorney "would have directed the Board to the precise point in the hearing transcript where the State objected to a preliminary question about the doctor's health." Appellant claims that the Board therefore "muzzled" her attorney and in the process violated her due process rights, because the Board did not permit her attorney to show the Board where the attorney attempted, without success, to present evidence of Appellant's alcoholism to the Hearing Examiner. However, a review of the December 15, 2005 transcript reveals that Appellant's attorney did not, in fact, attempt to present evidence of Appellant's alcoholism to the Hearing Examiner:

Q. [Appellant's attorney] Okay. And as part of the your probation, I notice on State's Exhibit 4, it says along with the alcohol treatment, 90-days inpatient mental health counseling as directed by federal probation. Is that the mental health counselor?

A. [Appellant] Yes.

Q. What's your understanding why did the judge order mental health?

A. My understanding is it was related to all the stressful things that were going on.

MS. BERRIEN [Assistant Attorney General]: I'm going to object. We're getting into mental health and substance abuse. She's not charged with any kind of mental health and drug abuse. I object to that.

MR. BYERS [Appellant's attorney]: I was showing her compliance with the court orders in State's Exhibit 4. I'll not take that any further.

HEARING OFFICER: It would seem that any prejudice from bringing in matters that are not in the site [sic] letter would be prejudice to which the respondent might object. If respondent is the one introducing it, bringing it out voluntarily, I don't see a danger of harmful prejudice to the respondent, so I have no problem with as far as we have gone at present, but my understanding is that Mr. Byers is not going to pursue that; is that correct?

MR. BYERS: That's correct. *I don't want to get into any of these issues.* (Emphasis added.) *Tr. 70-71.*

At the hearing on December 15, 2005, Appellant's attorney advised the Hearing Examiner that Appellant did not intend to present evidence of her alcoholism. Appellant's argument in support of this appeal is therefore directly contradicted by the conduct of Appellant's attorney before the Hearing Examiner. Inasmuch as Appellant did not present evidence of her alcoholism to the Hearing Examiner, she suffered no deprivation of her due process rights when her attorney was not permitted to raise that identical issue before the Board on June 14, 2006. Appellant's final argument in support of this appeal is therefore not well taken.

Upon consideration of the record that the State Medical Board of Ohio has certified to the Court, the Court finds that the Order that the Board issued on July 6, 2006, permanently revoking Appellant's certificate to practice medicine and surgery in

Ohio, staying that revocation, and suspending the certificate for a minimum of three years, with conditions for reinstatement, is supported by reliable, probative, and substantial evidence and is in accordance with law. The Order is therefore **AFFIRMED**.



JUDGE JOHN F. BENDER

Copies to:

KEVIN P. BYERS, ESQ. (0040253), Counsel for Appellant, 107 S. High St., Ste. 400, Columbus, OH 43215-3456

STEVEN MCGANN, AAG (0075476), Counsel for Appellee, 30 E. Broad St., Fl. 26, Columbus, OH 43215-3400

¹ At the Board meeting on June 14, 2006, the following discussion took place:

Dr. Egner stated that she has a problem with this Report and Recommendation. As far as the time line goes for Dr. Douglas, the felonies were committed around 2002. Dr. Douglas went through the first trial, the second trial begins, Dr. Douglas gives evidence and got a much more lenient sentence than she probably would have had. Then in December 2005 Dr. Douglas went through a Board hearing. Dr. Egner stated that there is nothing in the hearing record that at all indicates that alcoholism was a factor in her behavior in relation to the felonies. She read the entire hearing record, and she found that Dr. Douglas' answers to the questions asked of her were rather circular, revolving around the computer fraud and financial incidents. Dr. Egner stated that she doesn't think that Dr. Douglas really took ownership of her role in that during the hearing. She noted that Dr. Douglas had plenty of opportunity at the time to bring up her alcoholism as a factor in her misjudgment. For all Dr. Egner knows, the alcoholism is a subsequent factor of all the problems that Dr. Douglas had after that time. Dr. Egner stated that she has no idea that alcohol played a role in what happened here.

Dr. Egner stated that she can only go by what happened at the hearing. She added that she does understand that other evidence was then admitted subsequent to the hearing; but she doesn't understand why it wasn't brought up at the time. Since it wasn't, she doesn't consider it a mitigating circumstance. She suggested that the Board could remand this matter back to the Hearing Examiner. Then Dr. Douglas would have the

opportunity to prove how her alcoholism really did impair her judgment. She doesn't think that the proof is in the record that the Board has. She added that she personally feels that this seems rather convenient.

Dr. Egner stated that Dr. Douglas was conned by a very slick guy, and it ended up in a lot of felony convictions. Dr. Egner stated that to revoke Dr. Douglas' license is a serious thing to do.

Dr. Egner stated that, in light of the felonies and what Dr. Douglas was involved in, it's hard for her to believe that Dr. Douglas didn't realize that this was wrong. She thinks the Proposed Order is appropriate. Dr. Egner commented that what she does think is wrong is Dr. Douglas' bringing up after the fact that alcohol was the reason that this happened. If that's the case, it should have been addressed at the hearing. If the Board wants to consider that, they should have a new hearing and Dr. Douglas should give the Board evidence of how alcohol was a factor in her judgment at the time.

Dr. Steinbergh advised that she agrees with Dr. Egner's assessment of that issue; prior to this year, the Board had no knowledge of the impairment issue. However, overall, she feels that the Proposed Order is appropriate. Dr. Douglas had these felonies and used very poor judgment. Dr. Steinbergh remarked that she doesn't imagine that anyone could convince Dr. Steinbergh to do these acts under any circumstance. Dr. Steinbergh stated that she doesn't have the same feeling about Dr. Douglas being conned by someone very slick. She thinks that Dr. Douglas just made a very bad decision. Dr. Steinbergh stated that she can't understand, under the circumstances seen here, that someone of Dr. Douglas' supposed stature would be selling herself out for anything like that. Dr. Douglas is an intelligent woman who knew that what she did was wrong. It's simply not right. Dr. Steinbergh stated that she doesn't see any excuses for it.

Dr. Steinbergh referred to the Proposed Order of stayed permanent revocation and a suspension of not less than two years with conditions for monitoring. She noted that the Board agreed on a Step 1 Consent Agreement for Dr. Douglas in April 2006, at which point Dr. Douglas had been assessed several times. Dr. Steinbergh stated that, as she understands this, Dr. Douglas didn't really think that she had a problem. She didn't follow guidelines in regard to getting an assessment and accepting the assessment. She ultimately did go into a 28-day treatment program at a Board-approved facility. The Consent Agreement suspended Dr. Douglas' license for an indefinite period of time. All the Board is doing now is saying what the time will be. It's two years: Two

years to heal herself, and two years to understand what has gone on. Dr. Steinbergh stated that she thinks that Dr. Douglas does have a significant dependency problem that has to be dealt with. The Consent Agreement signed in April will be superseded by this Order. The suspension is indefinite, but it's not less than two years. Dr. Steinbergh stated that she feels that this is an appropriate Order. Dr. Douglas will have to demonstrate her ability to resume practice. Ultimately, Dr. Douglas will have to pass the SPEX [Special Purpose Examination] if she's out for two years.

Dr. Steinbergh spoke in support of the Proposed Order.

Dr. Varyani stated that he thinks that the Proposed Order is lenient, and he would be in favor of a suspension longer than two years. He added that he firmly believes that Dr. Douglas is taking advantage of her alcoholism. He doesn't think that the Board is giving an appropriate punishment for the crime committed. Dr. Varyani stated that he believes, as Dr. Egner does, that this was a willful act. Alcohol may have played a little part in it, but it was still a willful act. He acknowledged Dr. Douglas' education and research history, but he thinks that she should pay for her mistake, and he doesn't think that the Proposed Order is strong enough. He added that he will, however, go along with the Board on this.

Dr. Davidson stated that she found Dr. Egner's comments very compelling as well. Dr. Douglas' reasoning at hearing seemed pretty circular and convenient. She added that, from what she's read about the teachings of A.A. it is a disease associated with very poor judgment, but you pay for your crimes. You take responsibility for your actions. Dr. Davidson stated that she thinks that this is an appropriate treatment of this crime. She added that she believes that the proposed sanction is below the Board's minimal guideline for a felony in that the Board isn't permanently revoking Dr. Douglas' license. She agreed that the Proposed Order is lenient.

Dr. Egner stated that Dr. Douglas' license should really be permanently revoked. She has seven felony convictions. The Board has permanently revoked the licenses of other physicians who have felony convictions. This was an egregious act. If the Board wants to say that the reason that it happened was because of Dr. Douglas' alcoholism, she doesn't see it. The Board knows nothing about Dr. Douglas' alcoholism. Dr. Egner stated that she just feels that if you're going to go through a whole hearing, and at the very end of the record say, "oh by the way, we later found out she suffers form alcoholism, that that must have been the reason why she did these things," then the physician must show the Board that. There is nothing in the record that shows Dr. Egner that she did

these things based on her alcoholism. If the Board wants to be this lenient, the matter should be remanded to get the evidence that the alcoholism was a factor.

Dr. Kumar stated that the reason he favors this Proposed Order being more lenient is because when Dr. Douglas was tried for the crime committed, there was a hung jury at one time and then they called a mistrial. Obviously there was enough evidence presented at trial where she was a participant, but he's not sure how much. He commented that Dr. Douglas was conned. For that reason, the Proposed Order is appropriate.

Dr. Varyani stated that the reason he doesn't believe that Dr. Douglas was conned was because she asked that \$20,000 be sent to her daughter, versus \$5 million. Dr. Varyani stated that he doesn't think that that's a con. There has to be more to it than that. It doesn't sound real to him. Dr. Varyani stated that he doesn't think that it was a con or alcoholism behind this. Yes, she cooperated after the fact and during the second trial. That's why the judge showed leniency to her. Dr. Varyani stated that he agrees with Dr. Egner, and he would agree to a permanent revocation.

Dr. Steinbergh stated that she understands Dr. Egner's take on that. She added that she has been using the alcoholism as a mitigating circumstance, but acknowledged that the Board doesn't have a good history of Dr. Douglas' impairment. She stated that this was not a con. Dr. Douglas did this intentionally. Years ago the Board saw another physician with similar circumstances, although the previous physician's circumstances were more egregious because he stole from the Cleveland Clinic's cardiac research funds. He stole money clearly for his personal use. At that time, the Board did order a stayed permanent revocation. Ultimately, this physician sold himself down the road again and the Board did ultimately permanently revoke his license. She again stated that she was using Dr. Douglas' alcoholism as a mitigating circumstance, but she does agree that the Board doesn't have a good, lengthy history of Dr. Douglas' alcoholism. Dr. Steinbergh added that she doesn't get the sense that Dr. Douglas was impaired at that time. She stated that she believes that Dr. Douglas, for whatever reason, decided to do this. Dr. Steinbergh stated that no one could convince her to do this.

Mr. Browning stated that his sense is that the statement made by the judge in both cases, saying that in fact there were mitigating circumstances, was important to the Hearing Examiner, and important if you don't favor permanent revocation. The judge wasn't very clear about it, but commented that

I think anybody watching this can't help to say why this happened, and actually reading some of the materials that I read in preparation for the sentence helped answer that question a little bit, with respect to some past relationships you had that I don't want to put in the public record or the alcohol issue, et cetera, and plus, as we all know, Mr. Sallee is a very persuasive man.

Mr. Browning stated that this suggests that Dr. Douglas was manipulated and conned, but, nevertheless, responsible for her actions and needed to be punished at some level. The Judge took into account some significant mitigating circumstances. Mr. Browning stated that that's his sense from reading the Judge's statement. There were, in fact, intentional manipulations on the part of this individual and Dr. Douglas did things she should have never done. She should have known better. She has to be punished because of that. A severe sanction is in order because of her outrageous actions. The question is whether the severe sanction is "permanent revocation," or is Dr. Douglas, to some degree, a victim herself, that being a mitigating circumstance itself, and, given Dr. Douglas' history and commitment to recovery, does the Board want to give her an opportunity. The Hearing Examiner answered "yes" to that question. Mr. Browning stated that he read the case and thought that that was a reasonable conclusion. It was a leap of faith at some level, and may not happen. The Board may be letting someone walk on something who had more knowledge and intent where she should be permanently revoked, but that's where the judgment is.

Dr. Varyani stated that he did read this case thoroughly, and at one point representatives of the computer company actually talked to Dr. Douglas and asked her whether the computers were for the use of University Hospitals of Cleveland. Not only did Dr. Douglas telephonically say yes that they were for the use of University hospitals of Cleveland, but she wrote a letter from her office, on University Hospital stationery, and said, "yes." Dr. Varyani questioned how a person as smart as Dr. Douglas can be manipulated to do that. He said that, unless it's blackmail, he doesn't understand this. In a similar situation the Board permanently revoked the license of a physician who stole some funds. This is total fraud created by using her position with the University Hospitals of Cleveland. Dr. Varyani stated that he thinks that Dr. Douglas is very smart, and that's why he feels the way he feels.

Mr. Browning stated that he appreciates that. He added that his only point would be that a judge sat through this process and came to a conclusion where mitigation was part of the final judgment. The Board isn't here to retry the case. This is part of the record. The Hearing Examiner thought it was important enough to write it down, although that doesn't mean that the Board has to agree with it. It appears, though, that it was a significant consequence. Without any mitigation, there would have been a different result in the trial.

Dr. Kumar stated that there were twelve members of a jury who sat and listened to all of the evidence at trial, and they, in the initial trial, could not convict her. There has to be something in the record that essentially says that she had some problem, but that she was manipulated significantly. Dr. Kumar stated that he's not minimizing the fact that Dr. Douglas signed the papers, sent letters or participated in a telephone conference call, but that can be manipulated. Dr. Kumar spoke against permanent revocation.

Dr. Robbins referred the Board to paragraph 11 of the Hearing Examiner's Summary of Evidence, which reads:

On August 1, 2004, prior to the second trial, Dr. Douglas signed an agreement to plead guilty to two counts of mail fraud and seven counts of wire fraud. In the plea agreement, Dr. Douglas stated that she "expressly and unequivocally admits that she, in fact, knowingly, intentionally and willfully committed the crimes charged in those counts of the [indictment], and is, in fact, guilty of those offenses."

Dr. Robbins stated that there's absolutely nothing there about alcoholism. Dr. Robbins stated that he thinks it's pretty clear that the Board is being manipulated. He stated he feels strongly that revocation is in order.

Dr. Davidson stated that, although not mentioned by the judge, her understanding is that one of the mitigating circumstances for them was the fact that she had given credible and candid testimony, and that her testimony had been of substantial assistance to the government. That's irrelevant to the Board. The Board is looking at Dr. Douglas and her use of her medical license. That's why she voted for permanent revocation, even though she thinks that it's terribly unfortunate.

Dr. Kumar indicated that he would accept Mr. Browning's request for a three-year suspension, rather than a two-year suspension, as a friendly amendment to his Proposed Order.

Dr. Egner asked what the problem is with remanding this matter back to the Hearing Examiner. She noted that the Board is having a terrible time coming to a conclusion on a very serious case. Half the members present want permanent revocation and the other half want a sanction that she feels is pretty light.

Mr. Browning noted that alcohol is talked about in the court record. The Judge talked about it when she sentenced Dr. Douglas. It's not like the information is nowhere in the record. It's not like there's no evidence of anybody talking about alcohol. It appears very clearly that the Judge thinks that alcohol is part of the picture, and that's why she chose the sentence she chose. Mr. Browning stated that he doesn't know how one can reach another conclusion. How can you look at the record and then say that alcohol is irrelevant. He acknowledged that the Board doesn't have evidence it was a contributing factor, but he does feel that it is relevant that the Judge referenced it.

Dr. Kumar added that a stayed permanent revocation with a minimum three-year suspension is not a light sanction.

Mr. Browning commented that he wouldn't be shocked if it was equivalent to taking Dr. Douglas out of practice permanently. He stated that three years out of practice is a long time, and taking the SPEX is a big deal, particularly when one is at the end of one's career and has been out of practice for three years.

Dr. Steinbergh stated that, before she came on the Board, the Board imposed a similar sanction on a physician who had other problems. The Board stayed a permanent revocation and suspended the physician's license for five years. That physician never could come back into practice again. It is something that the Board can consider. It's the Board's intention that permanent revocation is not something that is palatable to everyone, then a longer suspension time does protect the public and does have meaning in Dr. Douglas' life. If after three years, she passes the SPEX and wants to have her license, that's what the Board has said she can do. Dr. Steinbergh stated that it seems to her that in her particular role at this point, she does not need a medical license to do what she does.

Mr. Browning stated that he would be willing to vote for permanent revocation to break the deadlock, but he just feels that the Court's judgment is important; and it's obvious to him that they believed that there were mitigating circumstances that went beyond cutting a deal and testifying against other people.

Dr. Egner stated that she appreciates what Mr. Browning is saying. Dr. Egner stated that she would not vote for permanent revocation, nor would she want anyone else to do so, unless that member feels very, very comfortable in doing so. If you're weighing for or against, and are not sure, you should never vote for permanent revocation. She stated that she will vote for the Proposed Order and feel comfortable with it.

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

Janice E. Green Douglas, MD,
41 Haskell Drive
Bratenahl, Ohio 44108
Appellant,

*
* 06 CVF 07 9215
* CASE NO. _____

v.

State Medical Board of Ohio,
77 South High St., 17th Floor
Columbus, Ohio 43266-0315
Appellee.

*
* JUDGE _____
*
*

Appeal from the State Medical Board of Ohio

APPELLANT'S NOTICE OF APPEAL

Pursuant to RC 119.12, notice is hereby given that Appellant, Janice E. Green Douglas, MD, appeals the order of the State Medical Board dated June 14, 2006, and mailed July 6, 2006, (copy attached as *Exhibit A.*) The Medical Board order is not supported by the necessary quantum of reliable, probative and substantial evidence nor is it in accordance with law.

Respectfully submitted,

KEVIN P. BYERS CO., L.P.A.

KPB

Kevin P. Byers 0040253
The 107 Building
107 South High Street, Suite 400
Columbus, Ohio 43215-3456
614.228.6283 Fax 228.6425

Attorney for Janice E. Green Douglas, MD

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
JUL 19 AM 8:36
CLERK OF COURTS-CV

2006 JUL 19 A 8:10

STATE MEDICAL BOARD
OF OHIO

OHIO STATE MEDICAL BOARD

JUL 27 2006

Certificate of Service

I certify that the original of the foregoing document was hand-filed this 19th day of July, 2006, at the State Medical Board, 77 South High Street, 17th Floor, Columbus, Ohio 43215-0315 with a copy filed this same date in the Court of Common Pleas of Franklin County in accord with RC §119.12 and Ohio caselaw¹, with a courtesy copy mailed to Assistant Attorney General Steve McGann, Health & Human Services Section, 30 East Broad Street, 26th Floor, Columbus, Ohio 43215-3426.



Kevin P. Byers

OHIO STATE MEDICAL BOARD

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-2 of 2-

¹ Stultz v. Oh. Dept. of Admin. Svcs. 10th Dist. No. 04AP-602, 2005-Ohio-200



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

June 14, 2006

Janice Electa Green Douglas, M.D.
41 Haskell Drive
Bratenahl, OH 44108

Dear Doctor Douglas:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of Patricia A. Davidson, Attorney Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 14, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order.

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

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

THE STATE MEDICAL BOARD OF OHIO

Lance A. Talmage, M.D.
Secretary

LAT:jam
Enclosures

CERTIFIED MAIL NO. 7003 0500 0002 4329 9927
RETURN RECEIPT REQUESTED

Cc: Kevin P. Byers, Esq.
CERTIFIED MAIL NO. 7003 0500 0002 4329 9941
RETURN RECEIPT REQUESTED

Mailed 7-6-06

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on June 14, 2006, including motions approving and confirming the Findings of Fact and Conclusions of the Hearing Examiner, and adopting an amended Order; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Janice Electa Green Douglas, 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.



Lance A. Talmage, M.D.
Secretary

(SEAL)

June 14, 2006 _____
Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

*

JANICE ELECTA
GREEN DOUGLAS, M.D.

*

*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on June 14, 2006.

Upon the Report and Recommendation of Patricia A. Davidson, State Medical Board Attorney Hearing Examiner, designated in this Matter pursuant to R.C. 4731.23, a true copy of which Report and Recommendation is attached hereto and incorporated herein, and upon the modification, 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 of Ohio for the above date.

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Janice E. Green Douglas, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Douglas' certificate shall be SUSPENDED for an indefinite period of time, but not less than three years.
- B. **INTERIM CONDITIONS, MONITORING:** During the period that Dr. Douglas' license is suspended, she shall comply with the following terms, conditions, and limitations:
 - 1. **Obey the Law:** Dr. Douglas shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 - 2. **Personal Appearances:** Dr. Douglas shall appear in person for quarterly interviews before the Board or its designated representative. The first such appearance shall take place on the date of her next appearance pursuant to her Step 1 Consent Agreement with the Board, which she entered in April 2006. Subsequent personal appearances must occur every three

months thereafter or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

3. **Quarterly Declarations:** Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the date that her next quarterly declaration is due pursuant to her Step I Consent Agreement of April 2006. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Dr. Douglas shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependence.
5. **Abstention from Alcohol:** Dr. Douglas shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician:** Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Douglas shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

The person or entity approved by the Board to serve as Dr. Douglas' supervising physician pursuant to the Step I Consent Agreement of April 2006 is hereby approved to serve as Dr. Douglas' designated supervising physician under this Order, unless within thirty days of the effective date of this Order, Dr. Douglas submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Douglas shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in a locale near Dr. Douglas' residence or place of employment. Dr. Douglas and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Douglas' designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Douglas' designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Douglas must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Douglas shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Dr. Douglas shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Douglas' expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Douglas shall maintain continued compliance with the terms of the aftercare contract entered into with her treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Dr. Douglas shall maintain participation in an alcohol and drug rehabilitation program, such as Alcoholics Anonymous, N.A., C.A., or Caduceus, no less than three times per week or as otherwise ordered by the Board. Substitution of any other program must receive prior Board approval. Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the

Board's offices no later than the due date for Dr. Douglas' quarterly declarations.

10. **Continued Compliance with a Contract with an Impaired Physicians Committee**: Dr. Douglas shall maintain continued compliance with the terms of her contract with Ohio Physicians Health Program [OPHP] or other impaired-physicians committee approved by the Board, to assure continuous assistance in recovery and/or aftercare.
11. **Psychiatric Assessment/Treatment**: Within sixty days of the effective date of this Order, Dr. Douglas shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Douglas' choice.

Upon approval by the Board, Dr. Douglas shall obtain from the approved psychiatrist an assessment of Dr. Douglas' current mental and psychiatric status. Prior to the initial assessment, Dr. Douglas shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Douglas shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Douglas' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric and/or psychological treatment, if any, based upon the psychiatrist's informed assessment of Dr. Douglas' current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board of the treatment plan, Dr. Douglas shall undergo and continue treatment as frequently as is recommended or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Douglas shall comply with her treatment plan, including taking medications as prescribed. Dr. Douglas shall provide a copy of this Order to all persons and entities that provide her treatment or monitoring for chemical dependence.

Dr. Douglas shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The reports shall contain information describing Dr. Douglas' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Douglas' compliance with the treatment plan; Dr. Douglas' mental and emotional status; Dr. Douglas' progress in treatment; and results of any laboratory studies that have been conducted since the prior report.

Dr. Douglas shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for her quarterly declaration.

In addition, Dr. Douglas shall ensure that her treating psychiatrist and other treatment providers, if any, immediately notify the Board of Dr. Douglas' failure to comply with her treatment plan, and/or (during any probationary period) notify the Board immediately of any determination that Dr. Douglas is unable to practice due to her condition.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Douglas must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Douglas shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Douglas' designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Douglas' designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Douglas shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Douglas shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order, unless otherwise determined by the Board.

3. **Demonstration of Ability to Resume Practice:** Dr. Douglas shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Douglas has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Douglas' ability to practice has been evaluated for chemical dependency and/or impairment and that she has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Douglas' application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Douglas has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his/her practice.
4. **Reports of Evaluation:** Upon submission of her application for reinstatement or restoration, Dr. Douglas shall provide the Board with a written report of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such assessment shall have been performed within sixty days prior to submission of her application for reinstatement or restoration. The report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Douglas' practice.
5. **Personal Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Douglas shall provide acceptable documentation of successful completion of a course or courses dealing with

personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Douglas submits the documentation of successful completion of the course or courses dealing with personal ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of medicine in the future

6. **Professional Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Douglas shall provide acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Douglas submits the documentation of successful completion of the course or courses dealing with professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

7. **Absence from Practice:** In the event that Dr. Douglas has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of her application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Douglas' fitness to resume practice.

- D. **PROBATIONARY CONDITIONS:** Upon reinstatement or restoration, Dr. Douglas' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey Laws in Ohio:** Dr. Douglas shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
2. **Terms, Conditions, and Limitations Continued from Suspension Period:** Dr. Douglas shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.

3. **Tolling of Probationary Period While Out of State:** Dr. Douglas shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.

- E. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Douglas' certificate will be fully restored.

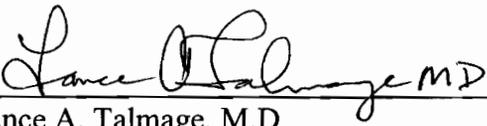
- F. **RELEASES:** Dr. Douglas shall provide continuing authorization, through appropriate written consent forms, for disclosure by her treatment providers of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency, psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.

- G. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS:** Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. The term "health care services" includes care or monitoring in connection with clinical research.

- H. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Douglas shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- I. **SUPERSEDE PREVIOUS CONSENT AGREEMENT:** This Order shall supersede the terms and conditions set forth in the Step I Consent Agreement between Dr. Douglas and the Board, dated April 12, 2006.
- J. **EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.

(SEAL)



Lance A. Talmage, M.D.
Secretary

June 14, 2006

Date

2006 MAY 23 A 10: 48

**REPORT AND RECOMMENDATION
IN THE MATTER OF JANICE E. GREEN DOUGLAS, M.D.**

The Matter of Janice E. Green Douglas, M.D.,¹ was heard by Patricia A. Davidson, Hearing Examiner for the State Medical Board of Ohio, on December 15, 2005.

INTRODUCTION

I. Basis for Hearing

- A. By letter dated July 13, 2005, the State Medical Board of Ohio [Board] notified Janice E. Green Douglas, M.D., also known as Janice Douglas Baltimore, M.D., that it had proposed to take disciplinary action against her certificate to practice medicine and surgery in Ohio. The Board's proposed action was based on allegations that, among other things, Dr. Douglas had been convicted of nine felony counts of mail fraud and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343. (State's Exhibit 1A)

The Board alleged that Dr. Douglas' conduct constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery,' as that clause is used in R.C. 4731.22(B)(5)." The Board also alleged that Dr. Douglas' conduct constitutes "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice,' as that clause is used in R.C. 4731.22(B)(8)." Third, the Board alleged that Dr. Douglas' plea of guilty to and/or the judicial finding of guilt constitutes a "plea of guilty to" or a "judicial finding of guilt of * * * a felony," as those terms are used in R.C. 4731.22(B)(9). Accordingly, the Board advised Dr. Douglas of her right to request a hearing. (State's Exhibit 1A)

- B. On August 12, 2005, the Board received Dr. Douglas' letter requesting a hearing. (State's Exhibit 1B)

II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Tara L. Berrien and Steven McGann, Assistant Attorneys General.
- B. On behalf of the Respondent: Kevin P. Byers, Esq.

¹ Dr. Douglas is also known by her married name, Janice Douglas Baltimore, M.D. Dr. Douglas explained at the hearing that she had married in 2000. She testified that her married surname is Baltimore and that her current driver's license is in the name of Baltimore. (Tr. at 6-7; St. Ex. 5 at 6-7)

EVIDENCE EXAMINED

I. Testimony Heard

Janice E. Green Douglas, M.D.

II. Exhibits Examined

A. Presented by the State

1. State's Exhibits 1A through 1P: Procedural exhibits.
2. State's Exhibit 2: Superseding Indictment, *United States v. Leroy Anthony Sallee, Janice Douglas aka Janice Baltimore, et al.*, Case No. 02CR-10241, U.S. District Court, Massachusetts (Sept. 25, 2002). [Note: Prior to submitting this exhibit, the State redacted it to remove counts as to which the court did not find guilt.]
3. State's Exhibit 3: Letter containing the Plea Agreement in *U.S. v. Douglas, supra* (signed by Dr. Douglas on Aug. 17, 2004).
4. State's Exhibit 4: Judgment Entry in *U.S. v. Douglas, supra* (March 31, 2005).
5. State's Exhibit 5: Transcript of the Plea Hearing in *U.S. v. Douglas, supra* (Oct. 21, 2004).
6. State's Exhibit 6: Transcript of the Sentencing Hearing in *U.S. v. Douglas, supra* (March 30, 2005).

B. Presented by the Respondent

1. Respondent's Exhibit A: Dr. Douglas' curriculum vitae.
2. Respondent's Exhibits B through M: Letters in support of Dr. Douglas.
3. Respondent's Exhibit N: Documents filed in *U.S. v. Douglas, supra*, including reports regarding treatment and a court order modifying the terms of probation.

C. Admitted by the Hearing Examiner Post Hearing

1. Board Exhibit 1: Step I Consent Agreement of April 2006.
2. Board Exhibit 2: Letter dated May 12, 2006, from Shepherd Hill regarding Dr. Douglas. (Filed under seal as a confidential document not subject to public disclosure.)
3. Board Exhibit 3: Respondent's Motion to Reopen the Record.
4. Board Exhibit 4: Hearing Examiner's Entry of May 17, 2006.

5. Board Exhibit 5: Notice of Substitution of Counsel for the State.
6. Board Exhibit 6: Hearing Examiner's Entry of September 28, 2005.

PROCEDURAL MATTER

Following the hearing in December 2005, Dr. Douglas' counsel notified the Hearing Examiner in a telephone conference that he had reason to believe that the Board would shortly issue to Dr. Douglas a new notice of opportunity for hearing, alleging impairment under R.C. 4731.22(B)(26), the provision authorizing disciplinary action due to impairment. Counsel had previously sought a continuance of the hearing based on the expectation of this additional notice, in order to consolidate all the issues. The Hearing Examiner had granted a continuance of six weeks, during which the new notice had not been issued. (State's Exhibit 1J; Board Exhibit 6)

During the telephone conference with counsel for the Respondent and the State, the Hearing Examiner agreed to postpone the Report and Recommendation for a month due to the expectation of a new, related notice of opportunity for hearing. Based on the evidence at hearing, the Hearing Examiner agreed that the interests of all parties would be served by considering all the issues in a single, consolidated Report and Recommendation, if possible.

Counsel made periodic reports to the Hearing Examiner, and the Hearing Examiner further postponed the Report and Recommendation. In March 2006, the Board ordered Dr. Douglas to submit to an evaluation at Shepherd Hill to determine whether she was in violation of R.C. 4731.22(B)(26). The evaluation (described more fully below in the Summary of Evidence) resulted in a diagnosis of alcohol dependence, and Dr. Douglas entered inpatient treatment. On April 12, 2006, Dr. Douglas entered into a Step I Consent Agreement with the Board in lieu of proceedings pursuant to R.C. 4731.22(B)(26). (Board Exhibit [Bd. Ex.] 1)

On May 16, 2006, Dr. Douglas filed a motion to reopen the record and admit additional evidence, consisting of the Step I Consent Agreement and a report letter from Shepherd Hill. Counsel for Dr. Douglas stated in telephone conferences that the Board could consider and rely on the evidence of impairment, notwithstanding the lack of allegations regarding chemical dependence or impairment in the July 2005 notice of opportunity for hearing. Counsel specifically waived any objection to the Board's consideration of and reliance on the new evidence when determining the appropriate sanction. Indeed, counsel stated that, in light of the new evidence, the Board could fashion terms and conditions of suspension or probation that included treatment and monitoring. (Bd. Exs. 1-3)

The State did not oppose the motion to reopen, which was granted by entry dated May 17, 2006. Accordingly, the Hearing Examiner admitted the evidence as Board Exhibits 1 and 2, respectively. The record then closed on May 17, 2006. (Bd. Exs. 3-4)

SUMMARY OF THE EVIDENCE

All exhibits and transcripts of testimony, even if not specifically mentioned, were thoroughly reviewed and considered by the Hearing Examiner prior to preparing this Report and Recommendation.

Background

1. Janice E. Green Douglas, M.D. (also known by her married name, Janice Douglas Baltimore, M.D.), testified that she had obtained her medical degree in 1968 from Meharry Medical College in Nashville, Tennessee, followed by an internship and internal-medicine residency at Meharry Medical College for three years. She testified that she had completed a two-year fellowship in endocrinology at Vanderbilt University from 1971 to 1973, followed by a three-year senior fellowship at the National Institutes of Health, working in the area of hormone regulation. (Respondent's Exhibit [Resp. Ex.] A; Transcript [Tr.] at 11-14)

In 1976, Dr. Douglas accepted a position at Case Western Reserve University School of Medicine [Case Western or "the medical school"], where she was a Professor of Physiology and Biophysics until 2005. According to her curriculum vitae [CV], Dr. Douglas served in a variety of positions at Case Western, including the following: Director of the Department of Medicine's Division of Endocrinology and Hypertension at University Hospital of Cleveland [University Hospital], from 1988 to 1993; Vice-Chairperson of Academic Affairs, Department of Medicine, University Hospital, from 1991 to 1998; and Director, Division of Hypertension, University Hospital, 1993, to 2002. (Resp. Ex. A; Tr. at 11-14)

2. Dr. Douglas received her Ohio medical license in 1976. According to her testimony and CV, Dr. Douglas has been board certified in internal medicine since 1972 and has been a Specialist in Clinical Hypertension since 1999, as certified by the American Society for Hypertension. Dr. Douglas formerly held medical licenses in Georgia and Tennessee, which she said had been inactive for many years. (Resp. Ex. A; Tr. at 13-14, 102)
3. Dr. Douglas testified that she has worked primarily in research rather than clinical practice. She described her work managing pharmaceutical clinical trials and supervising large staffs including faculty and nurses. Dr. Douglas explained that the clinical activity for these trials had been performed mostly at University Hospital where she had held privileges. Dr. Douglas estimated that she had spent about 5% of her time in clinical work, 25% to 30% of her time in administrative work, and the rest in research. (Tr. at 17-19, 47)
4. In addition, Dr. Douglas testified that she has authored numerous publications, served on editorial boards and grant-review committees, and participated in other professional activities as set forth on her CV. She stated that she had given many presentations and served as a visiting professor, often focusing on the under-representation of minorities in internal medicine. Dr. Douglas explained that, due to racial and ethnic differences, diseases such as hypertension, cardiovascular disease and kidney disease often need to be treated differently in African Americans. She testified that she had devoted much of her research and lecturing to that subject. (Resp. Ex. A; Tr. at 12, 47-50, 91-92)

Dr. Douglas has received numerous honors and awards, which are listed on her CV. She testified that she is particularly proud of the following: her election to the Institute of Medicine in the National Academy of Sciences; her inclusion in "The 300 Most Influential

Women in the History of Medicine in the United States,” as determined by the Library of Medicine; and her election to the American Society of Clinical Investigation and the Association of American Physicians, which she said is awarded to the most prestigious physician scientists in the United States. (Resp. Ex. A; Tr. at 47-50, 92-92)

Dr. Douglas’ Criminal Indictment and Guilty Plea

5. In September 2002, a federal grand jury in the District of Massachusetts issued a superseding indictment [indictment] charging four persons, including Dr. Douglas, with a scheme to defraud Compaq Computer Corporation [Compaq]. The grand jury alleged that the defendants purchased computer equipment at steeply discounted prices by falsely stating that the equipment would be used by Case Western in medical research, when their plan was to resell the equipment at a profit. The primary organizer of the scheme was Anthony Sallee, who pleaded guilty before the first trial. (State’s Exhibit [St. Ex.] 2 at 1-6; Tr. at 27-30; St. Ex. 5 at 13-15)
6. According to the indictment, the defendants told Compaq that Dr. Douglas was responsible for a research grant at Case Western involving collection of data in 300 cities, which required 300 servers and thousands of hard drives and other items. The government alleged that the defendants, to justify the delivery of the equipment to Anthony Sallee’s warehouse in Massachusetts rather than to the medical school in Ohio, had told Compaq that Mr. Sallee was a consultant to Dr. Douglas regarding the equipment. (St. Ex. 2 at 3-5)
7. According to the indictment, Dr. Douglas sent a letter to Compaq requesting a price quotation, and she later sent a purchase order and cover letter on the university’s letterhead explaining why delivery would be made to Mr. Sallee in Massachusetts. Further, the indictment alleged that Dr. Douglas had participated in a telephone conference with a Compaq representative in which the defendants had confirmed that the equipment would be used for research at Case Western, although they had never intended for Case Western to have it. (St. Ex. 2 at 4-6)
8. The indictment alleged that the price for the equipment would have been about \$5 million ordinarily, but that Compaq had sold it to the defendants for about \$3 million. The indictment further alleged that Mr. Sallee took delivery of the equipment and did in fact resell it to various buyers. It appears that the fraud was uncovered when Mr. Sallee received millions from the sales but did not pay Compaq. (St. Ex. 2 at 3-6)
9. The indictment charged that Dr. Douglas had committed mail fraud, violating 18 U.S.C. § 1341, based on a package mailed by Mr. Sallee to Dr. Douglas at Case Western, and a package mailed by Dr. Douglas from her Case Western office to Mr. Sallee. In addition, the government alleged that Dr. Douglas had committed wire fraud in violation of 18 U.S.C. § 1343, based on facsimile transmissions and telephone calls that implemented the scheme. (St. Ex. 2 at 7-11)

10. Before the trial commenced in July 2003, Mr. Sallee pleaded guilty. Dr. Douglas and the other two defendants participated in a three-week trial that ended in a hung jury. The trial judge declared a mistrial and scheduled a new trial. (Tr. at 27-30; St. Ex. 5 at 13-15)
11. On August 17, 2004, prior to the second trial, Dr. Douglas signed an agreement to plead guilty to two counts of mail fraud and seven counts of wire fraud. In the plea agreement, Dr. Douglas stated that she “expressly and unequivocally admits that she, in fact, knowingly, intentionally and willfully committed the crimes charged in those counts of the Superseding Indictment, and is, in fact, guilty of those offenses.” (St. Ex. 3 at 1, 11; St. Ex. 4-5; Tr. at 20, 29-30)

The Plea Hearing

12. On October 21, 2004, Judge Patti B. Saris held a plea hearing. First, Judge Saris inquired into the factual basis for the plea. Dr. Douglas agreed that the government’s summary of the facts, as follows, was accurate:

Dr. Douglas was * * * a professor at Case Western Reserve University Medical School, and was the chief of the Division of Hypertension at the medical school.

She had known Anthony Sallee for approximately ten years and knew that he was engaged in the business of buying and selling computer equipment; that in January of 2002, Mr. Sallee called Dr. Douglas, said he had a great opportunity to make a lot of money on the sale of computers to some persons in Canada and England, but he needed to run the purchase of the computers through a university to take advantage of a discount on the purchase of that equipment.

Sallee told Dr. Douglas that he wanted to use her name and the name of Case Western Reserve Hypertension Division as the entity purchasing the equipment, and she agreed that he could do so. Sallee offered to pay Dr. Douglas at least \$20,000 for her help. For personal reasons, Dr. Douglas told Sallee that the money should be sent to her daughter. Sallee agreed to send the money to the daughter but never, in fact, did so.

Sallee asked Dr. Douglas for some blank Case Western Reserve University letterhead stationery. He sent her a self-addressed FedEx envelope, and she sent him some blank Case Western stationery.

Mr. Sallee was working with Herb Cates * * * and with Dennis McIntosh * * * in connection with this matter.

And on or about February 8 of 2002, Mr. Sallee sent Dr. Douglas some false documents purporting to be a request * * * for a quotation to purchase a list of computer equipment which purportedly was going to be used by Dr. Douglas, purportedly in connection with a clinical research project for major drug companies seeking FDA approval for a new drug. Dr. Douglas signed those

false documents that had been sent to her, and she faxed them on or about February 11 to Mr. Cates --

(St. Ex. 5 at 15-16) At that point, Judge Saris stated that further reading was not necessary, and she admitted the summary as an exhibit.² Dr. Douglas reviewed the entire summary and confirmed that it was accurate and there was nothing she wanted to clarify or add. (St. Ex. 5 at 5-7, 15-17)

Dr. Douglas then entered her plea of guilty to nine felony counts of fraud, stating that her plea was made knowingly, freely and voluntarily. When Judge Saris asked Dr. Douglas her age, Dr. Douglas responded that she was 61 years old. (St. Ex. 5 at 5-7, 18-20, 22)

Sentencing

13. On March 30, 2005, Dr. Douglas appeared before the federal district court for sentencing. The government informed the court that Dr. Douglas had assisted the government in the second trial by giving credible and candid testimony, and that her testimony had been of substantial assistance to the government despite the acquittal of the remaining defendants. (St. Ex. 6 at 3)

Dr. Douglas' attorney stated that Dr. Douglas was currently engaged in "an outpatient program to address certain issues regarding alcohol, and depending upon this Court's determination and in view of the medical professional with whom she's dealing with, Dr. Douglas would certainly be willing to entertain an inpatient program." Further, counsel told the court that Dr. Douglas' father had recently died, that her mother had been institutionalized due to dementia, and that her sister was currently hospitalized with terminal cancer. Further, counsel noted that Dr. Douglas had been invited to teach at Meharry Medical College. (St. Ex. 6 at 8-9)

Judge Saris, who had presided over both trials, commented as follows:

Actually, this is not a very hard sentence for me, because having watched Dr. Douglas now through two trials, there is no way I'm going to incarcerate her. I was pleased for the government's motion for [reduction of sentence on the basis of Dr. Douglas'] substantial assistance. If not, I may well have gone under the 3553 factors, or aberrant conduct factors.

I think that the question that everyone asked, even the government, was, why? Since, essentially, you had one of the most preeminent, terrific careers that I've seen, maybe ever, in the federal court. And so, I mean, I think anybody watching this can't help but say why, and actually reading some of the materials that I read in preparing for the sentence helped answer that question a little bit, with respect to some past relationships you had that I don't want to put in the public record or the alcohol issue, et cetera, and plus, as we all know, Mr. Sallee is a very persuasive man.

² Although the transcript of the plea hearing has been submitted to the Board as State's Exhibit 5, the written summary that was admitted as an exhibit during that hearing was not included in the materials submitted to the Board.

I hope that your license is not revoked because -- and I don't know if that statement can help at all. I think that, what would make the most sense in the interest of justice would be a sentence of 24 months of probation [and] a \$7,500 fine * * *.

No restitution, because, as far as I can tell, pretty much the computer companies have collected what they were harmed, and \$900 special assessment, which is required under the law.

I agree that alcohol treatment is appropriate and perhaps may be part of the problem. Alcoholism certainly isn't part of the solution.

I read very carefully what your kids said, and I thought that was powerful, as well as, I believe, the mental health professional who submitted a report. So I require alcohol treatment inpatient for the 90-day program, and I just want the Probation Department to get that to make sure that it was appropriate, but it sounds good.

Second thing is mental health counseling, because it sounds as if that might be helpful, and you may be doing it anyway.

And, last, I do think that the reason I'm doing this without any electronic monitoring or curfew is because I think the best way you can pay back society is through community service. You have a lot to give, whether it's taking care of inner city people who suffer from what your specialty serves, or whether it's through teaching at your alma mater, or whether it's through, I don't know, world lecturing on the issue of disease, I don't want to hold you back.

* * *

Yes, I waive the drug testing. Although, I do believe that the treatment should be continuing for the next two years, and I'm not a professional in this, and I certainly was thinking of saying no alcohol; but I know a good glass of wine will help, but not several bottles. So I don't know whether I want to have a flat-out prohibition or whether I leave it up to the alcohol professionals.

(St. Ex. 6 at 11-14) The court entered a judgment imposing 24 months of probation and required alcohol treatment to include inpatient treatment for 90 days, plus mental health counseling, 400 hours of community service, a special assessment of \$900, and a fine of \$7,500. (St. Exs. 4, 6)

Dr. Douglas' Testimony at the Board Hearing

14. In her testimony at the Board hearing, Dr. Douglas explained that she had known Anthony Sallee for many years before he approached her with the computer-purchase proposal. She

stated that she had dated Mr. Sallee in the 1990s and that he had made contributions to the Kidney Foundation when she was on its board and to the American Diabetes Association when she was on that board. Dr. Douglas testified that she had known his family, a prominent and upstanding one in the community, for thirty years. Accordingly, Dr. Douglas stated, she had had no reason to suspect him of criminal behavior. (Tr. at 52-53, 61, 96)

15. Dr. Douglas said that she had not heard from Mr. Sallee in a long time when he started calling in January 2000, telling her that he had made a lot of money and that he needed to contribute to a nonprofit organization for tax purposes. She said they discussed it and decided that he could help Case Western by contributing to hypertension research. (Tr. at 52-53)
 16. Dr. Douglas testified that Mr. Sallee had telephoned her repeatedly, often calling with news of her son in Boston. In addition, Mr. Sallee had talked about selling computers, explaining that he wanted to use her name and the name of the Division of Hypertension at Case Western as the buyer of computer equipment. According to Dr. Douglas, Mr. Sallee explained that there was an “academic discount that he couldn’t get personally.” She testified that he had said he “had an opportunity to pull off some deals in reselling computers and * * * that, if it came through the university, that would make a significant amount more of a profit, and he was retiring soon and blah, blah, blah, that kind of scenario.” (Tr. at 26-31, 54-55, 58)
- Dr. Douglas testified that, in exchange for her participation, Mr. Sallee promised to pay her daughter at least \$20,000 for her college expenses, and he had also promised to contribute to hypertension research at Case Western. (Tr. at 31, 39, 53, 56, 100)
17. Dr. Douglas stated that she had agreed to participate only after Mr. Sallee had assured her that this type of purchase was legal and that he had done it with other institutions. She said there was “a lot of discussion, about this was completely honest and above board.” (Tr. at 53-56, 60)
 18. When asked why Mr. Sallee was not going to pay her directly but instead would pay the money to her daughter, Dr. Douglas had asserted that she herself had not needed the money, having a respectable salary and income from consulting. She said that her daughter had needed money due to heavy expenses as a full-time student in graduate school. Dr. Douglas subsequently conceded, however, that she had been paying essentially all her daughter’s expenses and that it was very expensive to pay tuition and live in Washington, D.C. Dr. Douglas insisted, however, that neither she nor her daughter had received any money from the scheme, nor had Mr. Sallee contributed to research as promised. (Tr. at 31, 53, 55-56, 83-84)
 19. Dr. Douglas testified that, in the conference with the Compaq representative, she had not discussed computers but merely explained who she was and described her work at the university. However, she conceded that her participation had lent legitimacy to the scheme and that she knew that the others were representing that the medical school was involved in a clinical trial that required computers when, in fact, it was not. (Tr. at 31-33, 35-39, 80-81)

According to Dr. Douglas, she “never wrote a word” of the fraudulent documents; Mr. Sallee and Mr. McIntosh prepared a fake purchase order that appeared to be a Case Western purchase order, and they also prepared a cover letter on paper that looked like Case Western’s letterhead. However, Dr. Douglas testified that Mr. Sallee had sent her the fake purchase order for signing and that she had signed it and sent it back to him. (Tr. at 31-39)

20. Dr. Douglas admitted that the medical school had not been involved in a research project requiring the equipment and that Case Western had not authorized her to contract for the equipment. She admitted that the university was not aware of the purchase nor aware of her use of “fake letterhead.” (Tr. at 31, 38-39)
21. When asked why she had agreed to a scheme that was obviously dishonest, Dr. Douglas explained that she was very busy and distracted at that time, and did not think about it. (Tr. at 58-60, 79-81) For example, she stated:

* * * I was so busy at the time, and there was so many things going on. I was working on a \$6 million new grant at the university that the medical school wanted me to spearhead. I was doing a lot of teaching in pharmacology at the time, and also had some issues with my husband that kept me just completely distracted.

* * *

I didn’t think about it. As I indicated, there were so many things going on at the time, I just didn’t really think about it.

(Tr. at 59, 79) Dr. Douglas stated that she “just had an unbelievable schedule” and that her husband had been involved in “substance abuse, cocaine abuse, and so it was a big, big problem.” When asked whether her busy schedule and distractions had prevented her “from knowing that using fake letterhead was illegal,” Dr. Douglas responded: “I just didn’t think about it at the time. * * * I wasn’t thinking clearly.” (Tr. at 58-60, 79-80)

Dr. Douglas also explained as follows:

- Q. And you didn’t think it was illegal when you were saying that the school was involved in this clinical trial when, in fact, it wasn’t?
- A. I didn’t really say that. Anthony and them put that.
- Q. You knew about that; correct?
- A. Yes.
- Q. And you didn’t realize that was illegal, since it wasn’t true?
- A. I didn’t think about it that way, honestly.

Q. Which way did you think about it?

A. I was so busy with other things I didn't really think about it very seriously. * * *

(Tr. at 80-81)

22. Dr. Douglas testified that she was remorseful for her “poor judgment.” When asked whether she was likely to engage in poor judgment again in the future if the Board allowed her to keep her license, Dr. Douglas responded: “I'm a person who learns from past experiences, and this has been a learning experience.” (Tr. at 99)
23. Dr. Douglas also testified regarding her reasons for pleading guilty to the felony charges. She explained that the following circumstances had influenced her decision: that her sister was undergoing chemotherapy for metastatic lung cancer and did not have health insurance; that her father's health was declining; that her mother had moved to an assisted-living facility due to dementia; that the first trial had cost \$250,000; and that the new trial would be expensive and would be held in Boston, far from her needy family members in Nashville, Tennessee. She testified that she had wanted to put her family first. Dr. Douglas noted that her father had died in January 2005 and that her sister had died in April 2005. (Tr. at 64-66)

Ongoing Probation and Current Activities

24. The federal court in Massachusetts transferred Dr. Douglas' case to the Northern District of Ohio to supervise her probation. Dr. Douglas participated in assessment and counseling for substance abuse as well as several sessions of mental-health counseling in 2005. (Resp. Ex. N; Tr. at 66)
25. Dr. Douglas testified that the criminal proceedings and felony convictions had greatly affected her in academia, as an individual, and as a physician. She stated that she had been obliged to step down from her academic position at the university and that her hospital privileges had been revoked. She stated that the university had taken away her grant money and given it to others at the university. Dr. Douglas also asserted that the university had removed her name from research being prepared for publication. (Tr. at 13, 19, 93, 98-99, 103-105)

In addition, Dr. Douglas said that she had suffered from the “whole negative publicity around all the newspaper articles that were so malicious.” She explained that she had experienced humiliation and embarrassment, and had felt remorse for her poor judgment. (13, 19, 98-99, 103-105, 114)

26. Dr. Douglas testified that she is currently doing consulting work for pharmaceutical companies and also continues to lecture on hypertension, kidney disease, and cardiovascular disease. For example, she stated that she had given lectures in October 2005 in California, Florida, and

Indiana. She further stated that she had also been active in volunteer work and fund-raising for charities, beyond her court-ordered community service, which she had completed within months of the sentencing. Dr. Douglas also said that she is currently going through a divorce. (Tr. at 6-7, 12-13, 73-74)

27. Dr. Douglas testified that, although she would not need a medical license to perform certain types of medical research or to work as a pharmaceutical representative, she would need a medical license to engage in clinical research on human subjects. (Tr. at 101)

Step I Consent Agreement

28. On or about May 19, 2005, Dr. Douglas voluntarily sought evaluation for chemical dependence at Glenbeigh Hospital [Glenbeigh], a Board-approved provider in Rock Creek, Ohio. Glenbeigh diagnosed alcohol dependence and recommended inpatient treatment for at least 28 days. Dr. Douglas declined the recommended treatment, and, in addition, she failed to report to the Board that she had not undergone the recommended treatment. (Bd. Ex. 1)
29. In July 2005, Dr. Douglas submitted to substance-abuse evaluation as ordered by the federal court in connection with her sentencing. Dr. Douglas was evaluated by Fresh Start, Inc., in Cleveland, Ohio, a provider not approved by the Board. Fresh Start diagnosed alcohol dependence and recommended treatment and monitoring. After Dr. Douglas participated in six sessions of substance-abuse counseling, her primary counselor at Fresh Start determined that she no longer needed treatment at that time. (Bd. Ex. 1)
30. In March 2006, the Board ordered Dr. Douglas to undergo evaluation to determine whether she was in violation of R.C. 4731.22(B)(26). On or about March 20, 2006, pursuant to a Board order, Dr. Douglas entered Shepherd Hill, a Board-approved treatment provider in Newark, Ohio, to undergo a three-day inpatient evaluation. (Bd. Ex. 1)

As a result of this evaluation, Dr. Douglas was diagnosed with alcohol dependence. Further, it was determined that the condition impaired her ability to practice medicine. A minimum of twenty-eight days of inpatient treatment was recommended, and Dr. Douglas entered residential treatment at Shepherd Hill on March 27, 2006. (Bd. Ex. 1)

31. On April 12, 2006, Dr. Douglas entered into a Step 1 Consent Agreement in lieu of formal proceedings for violation of R.C. 4731.22(B)(26). Among other things, she agreed to the following: the indefinite suspension of her Ohio certificate to practice medicine; complete abstinence from the use of alcohol and non-prescribed drugs; the use of prescribed drugs only under specific limitations; quarterly declarations to and appearances before the Board; random urine screenings for drugs and alcohol on a weekly basis; approval of a supervising physician; and attendance at meetings of Alcoholics Anonymous, Caduceus or other approved program no less than three times per week. Dr. Douglas further agreed to terms and conditions that would govern a request to reinstate her certificate. (Bd. Ex. 1)

In this Step I Consent Agreement, Dr. Douglas acknowledged that she understood that the Board intended to pursue the matters set forth in the July 2005 notice of opportunity for hearing, regardless of the Consent Agreement. Dr. Douglas expressly acknowledged that the Board could impose the full range of sanctions, including permanent revocation, in the administrative action regarding her felony convictions pursuant to the July 2005 notice. (Bd. Ex. 1)

32. Richard N. Whitney, M.D., of Shepherd Hill, together with Ellen Laubis, M.Ed., reported in a letter dated May 12, 2006, that Dr. Douglas had “successfully completed all treatment requirements at the Residential Day Treatment level of care and transitioned on April 5, 2006, to the Central Ohio Recovery Residence, our extended residential facility, to complete her Master Treatment Plan.” (Bd. Ex. 2)

Dr. Whitney and Ms. Laubis further reported that Dr. Douglas was successfully working on her recovery program, including abstinence from all mood-altering substances and daily attendance at Alcoholics Anonymous meetings. They stated that she was in compliance with all treatment recommendations and was scheduled to complete her primary treatment on May 26, 2006. Dr. Whitney and Ms. Laubis also stated that Dr. Douglas would be required to complete 104 sessions of aftercare and Caduceus meetings in her home area. They concluded that she “has an excellent opportunity for continued recovery provided she continues to follow her recovery plan.” (Bd. Ex. 2)

FINDINGS OF FACT

1. On October 21, 2004, in the United States District Court for the District of Massachusetts, Janice E. Green Douglas, M.D., who is also known by her married name of Janice Douglas Baltimore, M.D., pleaded guilty to two felony counts of mail fraud in violation of 18 U.S.C. § 1341 and seven felony counts of wire fraud in violation of 18 U.S.C. § 1343. In a judgment entry dated March 31, 2005, the federal district court adjudicated Dr. Douglas guilty of these felonies and sentenced her to twenty-four months of probation, a fine of \$7,500, a special assessment of \$900, and additional conditions such as 400 hours of community service.
2. Dr. Douglas’ conduct underlying the guilty plea and judicial finding of guilt are described in the Plea Agreement and the Judgment in a Criminal Case in *United States v. Janice Douglas*, Case No. 02CR-10241 (D. Mass.). Her criminal conduct is also described in the transcript of the plea hearing held in federal court. Dr. Douglas admitted her criminal conduct to the federal district court, and she also admitted it during her hearing before the Board.
3. In brief, Dr. Douglas exploited her position as a physician, medical researcher, and professor at Case Western Reserve University School of Medicine, where she was the chief of the Division of Hypertension. Dr. Douglas knowingly helped a friend obtain millions of dollars’ worth of computer equipment at a steeply discounted price by leading the computer manufacturer to believe that she and Case Western were buying the equipment for a large research project to test a new drug.

Dr. Douglas participated in a telephone conference with the manufacturer's representative to describe her position at the medical school and her research work, to lend legitimacy to the scheme. She signed a fraudulent request for a price quotation that had been falsified to look like an official university document. Dr. Douglas knew, however, that the equipment was not being purchased by the university for medical research; she knew that the computers were slated for commercial resale at a substantial profit. Dr. Douglas arranged for her share of the profits to be paid indirectly, to a family member.

CONCLUSIONS OF LAW

1. Pursuant to Rule 4731-13-24, Ohio Administrative Code, a certified copy of a plea of guilty to, or a judicial finding of guilt of, any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.
2. The conduct of Janice E. Green Douglas, M.D. (also known as Janice Douglas Baltimore, M.D.), as described above in Findings of Fact 1 through 3, constitutes "[m]aking a false, fraudulent, deceptive, or misleading statement * * * in relation to the practice of medicine and surgery," as that clause is used in R.C. 4731.22(B)(5).

Dr. Douglas used her position as a clinical research physician to assist in the commission of a fraud. The fraudulent scheme depended on Dr. Douglas' status as a physician who managed clinical drug trials; the fraud could not have been implemented without her status as, and her false representations as, a clinical research physician.

3. Further, Dr. Douglas' conduct as described in Findings of Fact 1 through 3 constitutes "[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice," as that clause is used in R.C. 4731.22(B)(8).
4. Dr. Douglas' conduct in pleading guilty to nine felony counts of fraud, and/or the judicial adjudication of her guilt, as set forth above in Finding of Fact 1, constitutes a "plea of guilty to [or] a judicial finding of guilt of * * * a felony," as that clause is used in R.C. 4731.22(B)(9).

* * * * *

Throughout the hearing, Dr. Douglas appeared to lack a genuine understanding of the fact that she had engaged in blatantly dishonest conduct. When questioned about participating in an obviously fraudulent scheme, Dr. Douglas appeared to be confused as to how it had happened.

The simple, inescapable truth is that no reasonable person, no matter how busy or distracted, would believe that such a scheme was legal. Here, Dr. Douglas was and is a sophisticated,

intelligent person. Consequently, there appeared no choice after the hearing but to recommend a permanent revocation of her certificate based on the criminal conduct related to her medical work. Dr. Douglas' lack of progress toward comprehending her behavior was a troublesome factor that could not be ignored.

However, after the hearing, new evidence was admitted. Dr. Douglas had been diagnosed with alcohol dependence that had caused impairment. In addition, in April 2006, Dr. Douglas had entered into a Step I Consent Agreement with the Board in lieu of formal proceedings for violation of R.C. 4731.22(B)(26). The agreement reflects the Board's belief that Dr. Douglas' condition is treatable and that the potential for recovery exists.

Accordingly, the Hearing Examiner recommends against permanent revocation for several reasons. First, Dr. Douglas has made significant contributions to medical research and education, and has served a minority population that has been underserved in both research and treatment. The loss of Dr. Douglas' medical license would preclude her from full participation in the type of research she has performed laudably in the past.

Second, Judge Saris in the federal trial court recommended against permanent revocation. Her opinion, while having no binding effect whatsoever in this forum, is nonetheless a factor for consideration. Judge Saris presided over two trials, observing Dr. Douglas for many weeks and hearing every word of testimony. Based on all the circumstances, the judge was moved to be lenient in sentencing and to express her hope that the State of Ohio would not permanently revoke Dr. Douglas' medical license.

Third, the Step I Consent Agreement indicates that Dr. Douglas suffers from a treatable condition and impairment from which she may recover. This impairment appears to have contributed to Dr. Douglas' criminal conduct. While the condition does not excuse her conduct in any way, the Board may consider her condition as a mitigating factor when determining the appropriate sanction.

PROPOSED ORDER

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Janice E. Green Douglas, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Douglas' certificate shall be SUSPENDED for an indefinite period of time, but not less than two years.
- B. **INTERIM CONDITIONS, MONITORING:** During the period that Dr. Douglas' license is suspended, she shall comply with the following terms, conditions, and limitations:

1. **Obey the Law**: Dr. Douglas shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Personal Appearances**: Dr. Douglas shall appear in person for quarterly interviews before the Board or its designated representative. The first such appearance shall take place on the date of her next appearance pursuant to her Step 1 Consent Agreement with the Board, which she entered in April 2006. Subsequent personal appearances must occur every three months thereafter or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations**: Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the date that her next quarterly declaration is due pursuant to her Step 1 Consent Agreement of April 2006. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs**: Dr. Douglas shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependence.
5. **Abstention from Alcohol**: Dr. Douglas shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician**: Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Douglas shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

The person or entity approved by the Board to serve as Dr. Douglas' supervising physician pursuant to the Step I Consent Agreement of April 2006 is hereby approved to serve as Dr. Douglas' designated supervising physician under this Order, unless within thirty days of the effective date of this Order, Dr. Douglas submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Douglas shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in a locale near Dr. Douglas'

residence or place of employment. Dr. Douglas and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Douglas' designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Douglas' designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Douglas must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Douglas shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request:** Dr. Douglas shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Douglas' expense.
8. **Comply with the Terms of Treatment and Aftercare Contract:** Dr. Douglas shall maintain continued compliance with the terms of the aftercare contract entered into with her treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program:** Dr. Douglas shall maintain participation in an alcohol and drug rehabilitation program, such as Alcoholics Anonymous, N.A., C.A., or Caduceus, no less than three times per week or as otherwise ordered by the Board. Substitution of any other program must receive prior Board approval. Dr. Douglas

shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declarations.

10. **Continued Compliance with a Contract with an Impaired Physicians Committee:** Dr. Douglas shall maintain continued compliance with the terms of her contract with Ohio Physicians Health Program [OPHP] or other impaired-physicians committee approved by the Board, to assure continuous assistance in recovery and/or aftercare.
11. **Psychiatric Assessment/Treatment:** Within sixty days of the effective date of this Order, Dr. Douglas shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Douglas' choice.

Upon approval by the Board, Dr. Douglas shall obtain from the approved psychiatrist an assessment of Dr. Douglas' current mental and psychiatric status. Prior to the initial assessment, Dr. Douglas shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Douglas shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Douglas' current mental and psychiatric status and condition;
- b. A detailed plan of recommended psychiatric and/or psychological treatment, if any, based upon the psychiatrist's informed assessment of Dr. Douglas' current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board of the treatment plan, Dr. Douglas shall undergo and continue treatment as frequently as is recommended or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Douglas shall comply with her treatment plan, including taking medications as prescribed. Dr. Douglas shall provide a copy of this Order to all persons and entities that provide her treatment or monitoring for chemical dependence.

Dr. Douglas shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The reports shall contain information describing Dr. Douglas' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Douglas' compliance with the treatment plan; Dr. Douglas' mental and emotional status; Dr. Douglas' progress in treatment; and results of any laboratory studies that have been conducted since the prior report.

Dr. Douglas shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for her quarterly declaration.

In addition, Dr. Douglas shall ensure that her treating psychiatrist and other treatment providers, if any, immediately notify the Board of Dr. Douglas' failure to comply with her treatment plan, and/or (during any probationary period) notify the Board immediately of any determination that Dr. Douglas is unable to practice due to her condition.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Douglas must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Douglas shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Douglas' designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Douglas' designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Douglas shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Douglas shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order, unless otherwise determined by the Board.

3. **Demonstration of Ability to Resume Practice:** Dr. Douglas shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Douglas has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Douglas' ability to practice has been evaluated for chemical dependency and/or impairment and that she has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the evaluations shall have been performed within sixty days prior to Dr. Douglas' application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Douglas has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon his/her practice.
4. **Reports of Evaluation:** Upon submission of her application for reinstatement or restoration, Dr. Douglas shall provide the Board with a written report of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such assessment shall have been performed within sixty days prior to submission of her application for reinstatement or restoration. The report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Douglas' practice.
5. **Personal Ethics Course:** At the time she submits her application for reinstatement or restoration, Dr. Douglas shall provide acceptable documentation of successful completion of a course or courses dealing with personal ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education

requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

6. **Absence from Practice**: In the event that Dr. Douglas has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of her application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Douglas' fitness to resume practice.
- D. **PROBATIONARY CONDITIONS**: Upon reinstatement or restoration, Dr. Douglas' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:
1. **Obey Laws in Ohio**: Dr. Douglas shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
 2. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Douglas shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 3. **Tolling of Probationary Period While Out of State**: Dr. Douglas shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Douglas' certificate will be fully restored.
- F. **RELEASES**: Dr. Douglas shall provide continuing authorization, through appropriate written consent forms, for disclosure by her treatment providers of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency, psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- G. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she is under contract to provide health

care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. The term "health care services" includes care or monitoring in connection with clinical research.

- H. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING AUTHORITIES:** Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Douglas shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
- I. **SUPERSEDE PREVIOUS CONSENT AGREEMENT:** This Order shall supersede the terms and conditions set forth in the Step I Consent Agreement between Dr. Douglas and the Board, dated April 12, 2006.
- J. **EFFECTIVE DATE OF ORDER:** This Order shall become effective immediately upon the mailing of notification of approval by the Board.



P.A. Davidson
Hearing Examiner



State Medical Board of Ohio

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EXCERPT FROM THE DRAFT MINUTES OF JUNE 14, 2006

REPORTS AND RECOMMENDATIONS

Dr. Robbins announced that the Board would now consider the findings and orders appearing on the Board's agenda. He noted that the cases of Mitchell Edward Simons, M.D., and Frank Murray Strasek, D.P.M., which were scheduled for this meeting, would be considered at a later time due to the unavailability of their attorneys to accompany them to the meeting.

Dr. Robbins asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings, conclusions, and orders, and any objections filed in the matters of: Gerald Brian Applegate, M.D.; Janice E. Green Douglas, M.D.; Khalid Mahmoud Shirif, M.D.; and Cynthia Diane Wester-Broner, M.D. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye
	Dr. Robbins	- aye

Dr. Robbins asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

Dr. Madia - aye
Dr. Steinbergh - aye
Dr. Robbins - aye

Dr. Robbins noted that, in accordance with the provision in Section 4731.22(F)(2), Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of these matters. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

Dr. Robbins stated that, if there were no objections, the Chair would dispense with the reading of the proposed findings of fact, conclusions and orders in the above matters. No objections were voiced by Board members present.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

.....
JANICE E. GREEN DOUGLAS, M.D.

Dr. Robbins directed the Board's attention to the matter of Janice E. Green Douglas, M.D. He advised that objections were filed to Hearing Examiner Davidson's Report and Recommendation and were previously distributed to Board members.

Dr. Robbins continued that a request to address the Board has been timely filed on behalf of Dr. Douglas. Five minutes would be allowed for that address.

Dr. Douglas was accompanied by her attorney, Kevin P. Byers.

Mr. Byers stated that he appreciates this opportunity to address the Board. He stated that he would briefly like to reference the objections, adding that he's sure that the Board members have had a chance to study those. He stated that he would also like to highlight a fact from the record: That Dr. Douglas is here today about her Ohio license, which is her only active license at this point. She had training licenses many years ago, but for the last 20 years or more she has held only an Ohio license.

Dr. Douglas thanked the Board for allowing her the opportunity to speak directly to the Board. She stated that her Ohio license is very important to her. As Mr. Byers mentioned, it is her only license. It's been over 30 years since she trained in Tennessee and had a license there.

Dr. Douglas read her statement to the Board. She apologized to the Board for the harm that her poor judgment in committing a felony had inflicted on the institution of medicine, her former colleagues, as well as her former institution of employment for over 30 years. Dr. Douglas stated that she's willing to take full

responsibility for the actions that occurred over four years ago. She has come to have a great understanding of why that whole series of events occurred. She now realizes that the entire scenario would not have occurred but for the disease of alcoholism with which she suffers. Her education about her disease has brought her to the point that she realizes that drinking alcohol excessively actually represents about 10 to 25 percent of the disease of alcoholism. The other part of the disease is responsible for things that could happen that actually can best be described as poor judgment.

Dr. Douglas stated that there is no question that the mental state from which she suffered and was experiencing at the time of all these events leading to the felony have not been fully explained. She advised that she experienced impaired judgment and irrational behavior as a result of her disease of alcoholism. During her nine weeks of residential treatment at Shepherd Hill, her knowledge about her inherited disease of alcoholism expanded tremendously, and her recovery program was initiated at that time.

Dr. Douglas stated that her psychological state represents a common problem accompanying the disease of alcoholism and is not simply associated with actually being physically intoxicated or actively drinking at any particular time. Dr. Douglas stated that she has also come to realize how mentally disabling and devastating her co-dependence related to her husband's active drug dependency was. This caused severe anxiety, depression, frequent crying spells, and inability to concentrate. Dr. Douglas stated that she also came to realize the severity of this as a result of the educational process, along with extensive counseling and reading at Shepherd Hill. Dr. Douglas stated that this represented a combination that was devastating for her career and made her very vulnerable to the influences of an old friend. Dr. Douglas commented that the Federal Judge who heard the case observed, "Mr. Sallee is a very persuasive man."

Dr. Douglas stated that, but for her disease of alcoholism and co-dependency, none of the events that have brought her before the Board today would ever have happened. She stated that she has been in counseling on a one-to-one basis with Dr. Cynthia Downing in Cleveland, both while she was in Shepherd Hill and since discharge. It is clear that as she thinks about her accomplishments while she was active in her disease of alcoholism, there is no question that since being in recovery there are a lot of things that she looks forward to being able to do. Dr. Douglas stated that she would be happy to entertain any questions that Board members might have of her at this time.

Dr. Robbins asked whether the Assistant Attorney General wished to respond.

Mr. McGann stated that there is no dispute that the actions of Dr. Douglas are clear violations of Ohio law. What the Board is being asked to do at this time is to weigh the mitigating factors against the aggravating factors. The Board is in the best position to determine the appropriate weight to be given to each aggravating factor and each mitigating factor. Mr. McGann stated that he would like to point out a few things before the Board discusses those factors.

Mr. McGann stated that there is no question that Dr. Douglas has contributed to medical research and education. That does not necessarily mean that the Board should give it so much weight that it accepts less

than what is recommended in the Report and Recommendation. Mr. McGann stated that he thinks that Dr. Douglas is asking the Board to suspend her license for only one year. Mr. McGann stated that the State does not agree with that. Dr. Douglas has contributed to the medical profession, but she is still in ongoing recovery from alcoholism.

Mr. McGann stated that there are two issues that the Board needs to consider. First of all, if this were just about alcoholism and had nothing to do with millions of dollars in fraud, two years would be at minimum what Dr. Douglas would need to fully recover before she could come back to practice. Not only would it be a disservice to the public to do less than a two-year suspension, it would be a disservice to Dr. Douglas, who really has some serious issues with her impairment and who needs some time to focus on that solely.

Mr. McGann asked that the Board not forget the seriousness of the violations in this case. This isn't about Dr. Douglas taking home a few staplers from the university. It's about millions of dollars in fraud. Mr. McGann stated that alcoholism may have contributed to her poor judgment, but it's not the sole factor. He commented that Dr. Douglas has to take responsibility for that, and the Board must impose some responsibility. The aggravating factor is the seriousness of her multiple fraud convictions, versus the mitigating factors of her career and her alcoholism.

Mr. McGann stated that, considering these things, the State believes that the Proposed Order is nothing less than a gift. Two years is the minimum that Dr. Douglas should be suspended.

MR. BROWNING MOVED TO APPROVE AND CONFIRM MS. DAVIDSON'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF JANICE E. GREEN DOUGLAS, M.D. DR. STEINBERGH SECONDED THE MOTION.

Dr. Robbins stated that he would now entertain discussion in the above matter.

Dr. Egner stated that she has a problem with this Report and Recommendation. As far as the time line goes for Dr. Douglas, the felonies were committed around 2002. Dr. Douglas went through the first trial, the second trial begins, Dr. Douglas gives evidence and got a much more lenient sentence than she probably would have had. Then in December 2005 Dr. Douglas went through a Board hearing. Dr. Egner stated that there is nothing in the hearing record that at all indicates that alcoholism was a factor in her behavior in relation to the felonies. She read the entire hearing record, and she found that Dr. Douglas' answers to the questions asked of her were rather circular, revolving around the computer fraud and financial incidents. Dr. Egner stated that she doesn't think that Dr. Douglas really took ownership of her role in that during the hearing. She noted that Dr. Douglas had plenty of opportunity at the time to bring up her alcoholism as a factor in her misjudgment. For all Dr. Egner knows, the alcoholism is a subsequent factor of all the problems that Dr. Douglas had after that time. Dr. Egner stated that she has no idea that alcohol played a role in what happened here.

Dr. Egner stated that she can only go by what happened at the hearing. She added that she does understand that other evidence was then admitted subsequent to the hearing; but she doesn't understand why it wasn't

brought up at the time. Since it wasn't, she doesn't consider it a mitigating circumstance. She suggested that the Board could remand this matter back to the Hearing Examiner. Then Dr. Douglas would have the opportunity to prove how her alcoholism really did impair her judgment. She doesn't think that the proof is in the record that the Board has. She added that she personally feels that this seems rather convenient.

Dr. Egner stated that Dr. Douglas was conned by a very slick guy, and it ended up in a lot of felony convictions. Dr. Egner stated that to revoke Dr. Douglas' license is a serious thing to do.

Dr. Steinbergh noted that the Proposed Order is for a stayed revocation, with a two-year suspension.

Dr. Egner stated that, in light of the felonies and what Dr. Douglas was involved in, it's hard for her to believe that Dr. Douglas didn't realize that this was wrong. She thinks the Proposed Order is appropriate. Dr. Egner commented that what she does think is wrong is Dr. Douglas' bringing up after the fact that alcohol was the reason that this happened. If that's the case, it should have been addressed at hearing. If the Board wants to consider that, they should have a new hearing and Dr. Douglas should give the Board evidence of how alcohol was a factor in her judgment at the time.

Dr. Steinbergh advised that she agrees with Dr. Egner's assessment of that issue; prior to this year, the Board had no knowledge of the impairment issue. However, overall, she feels that the Proposed Order is appropriate. Dr. Douglas had these felonies and used very poor judgment. Dr. Steinbergh remarked that she doesn't imagine that anyone could convince Dr. Steinbergh to do these acts under any circumstance. Dr. Steinbergh stated that she doesn't have the same feeling about Dr. Douglas being conned by someone very slick. She thinks that Dr. Douglas just made a very bad decision. Dr. Steinbergh stated that she can't understand, under the circumstances seen here, that someone of Dr. Douglas' supposed stature would be selling herself out for anything like that. Dr. Douglas is an intelligent woman who knew that what she did was wrong. It's simply not right. Dr. Steinbergh stated that she doesn't see any excuses for it.

Dr. Steinbergh referred to the Proposed Order of stayed permanent revocation and a suspension of not less than two years with conditions for monitoring. She noted that the Board agreed on a Step 1 Consent Agreement for Dr. Douglas in April 2006, at which point Dr. Douglas had been assessed several times. Dr. Steinbergh stated that, as she understands this, Dr. Douglas didn't really think that she had a problem. She didn't follow guidelines in regard to getting an assessment and accepting the assessment. She ultimately did go into a 28-day treatment program at a Board-approved facility. The Consent Agreement suspended Dr. Douglas' license for an indefinite period of time. All the Board is doing now is saying what the time will be. It's two years: Two years to heal herself, and two years to understand what has gone on. Dr. Steinbergh stated that she thinks that Dr. Douglas does have a significant dependency problem that has to be dealt with. The Consent Agreement signed in April will be superseded by this Order. The suspension is indefinite, but it's not less than two years. Dr. Steinbergh stated that she feels that this is an appropriate Order. Dr. Douglas will have to demonstrate her ability to resume practice. Ultimately, Dr. Douglas will have to pass the SPEX if she's out for two years.

Dr. Steinbergh spoke in support of the Proposed Oder.

Dr. Kumar asked whether Dr. Steinbergh was suggesting that the two-year suspension be retroactive to the beginning of her suspension under the Consent Agreement or two years from now.

Dr. Steinbergh stated that the two years will begin from the date of the mailing of the Proposed Order.

Dr. Kumar stated that the majority of the Proposed Order in the Report and Recommendation pertains to impairment. However, with regard to Dr. Douglas' judgment, it only requires her to take a personal ethics course. Dr. Kumar stated that Dr. Douglas will have plenty of time, and she should be able to take a professional ethics course as well.

DR. KUMAR MOVED TO AMEND THE PROPOSED ORDER IN THE MATTER OF JANICE E. GREEN DOUGLAS, M.D., BY ADDING A REQUIREMENT THAT DR. DOUGLAS ALSO SUCCESSFULLY COMPLETE A PROFESSIONAL ETHICS COURSE.

Dr. Steinbergh stated that she wouldn't disagree with that. Dr. Douglas' conduct did impact her profession without question. Dr. Steinbergh stated that she would have no problem with adding that requirement, if that's what the Board wants to do.

Dr. Kumar stated that the way the Report and Recommendation is written, it primarily addresses the issue of impairment. There are other issues that have to be addressed.

DR. STEINBERGH SECONDED DR. KUMAR'S MOTION TO AMEND. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- nay
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- nay
	Dr. Madia	- abstain
	Dr. Steinbergh	- aye

Needing a majority to pass a motion to amend a Proposed Order, the motion carried.

Dr. Varyani stated that he thinks that the Proposed Order is lenient, and he would be in favor of a suspension longer than two years. He added that he firmly believes that Dr. Douglas is taking advantage of her alcoholism. He doesn't think that the Board is giving an appropriate punishment for the crime committed. Dr. Varyani stated that he believes, as Dr. Egner does, that this was a willful act. Alcohol may have played a little part in it, but it was still a willful act. He acknowledged Dr. Douglas' education and research history, but he thinks that she should pay for her mistake, and he doesn't think that the Proposed

Order is strong enough. He added that he will, however, go along with the Board on this.

Dr. Davidson stated that she found Dr. Egner's comments very compelling as well. Dr. Douglas' reasoning at hearing seemed pretty circular and convenient. She added that, from what she's read about the teachings of A.A., it is a disease associated with very poor judgment, but you pay for your crimes. You take responsibility for your actions. Dr. Davidson stated that she thinks that this is an appropriate treatment of this crime. She added that she believes that the proposed sanction is below the Board's minimal guideline for a felony in that the Board isn't permanently revoking Dr. Douglas' license. She agreed that the Proposed Order is lenient.

Dr. Egner stated that Dr. Douglas' license should really be permanently revoked. She has seven felony convictions. The Board has permanently revoked the licenses of other physicians who have felony convictions. This was an egregious act. If the Board wants to say that the reason that it happened was because of Dr. Douglas' alcoholism, she doesn't see it. The Board knows nothing about Dr. Douglas' alcoholism. Dr. Egner stated that she just feels that if you're going to go through a whole hearing, and at the very end of the record say, "oh by the way, we later found out she suffers from alcoholism, and that must have been the reason why she did these things," then the physician must show the Board that. There is nothing in the record that shows Dr. Egner that she did these things based on her alcoholism. If the Board wants to be this lenient, the matter should be remanded to get the evidence that the alcoholism was a factor.

Mr. Byers asked to clarify something.

Dr. Robbins stated that he cannot.

Dr. Egner stated that she'd like to hear other comments on the record, and not whether alcoholism was a mitigating factor.

Dr. Kumar stated that the reason he favors this Proposed Order being more lenient is because when Dr. Douglas was tried for the crime committed, there was a hung jury at one time and then they called a mistrial. Obviously there was enough evidence presented at trial where she was a participant, but he's not sure how much. He commented that Dr. Douglas was conned. For that reason, the Proposed Order is appropriate.

Dr. Varyani stated that the reason he doesn't believe that Dr. Douglas was conned was because she asked that \$20,000 be sent to her daughter, versus \$5 million. Dr. Varyani stated that he doesn't think that that's a con. There has to be more to it than that. It doesn't sound real to him. Dr. Varyani stated that he doesn't think that it was a con or alcoholism behind this. Yes, she cooperated after the fact and during the second trial. That's why the judge showed leniency to her. Dr. Varyani stated that he agrees with Dr. Egner, and he would agree to a permanent revocation.

DR. EGNER MOVED TO AMEND THE AMENDED PROPOSED ORDER BY SUBSTITUTING

AN ORDER OF REVOCATION. DR. VARYANI SECONDED THE MOTION.

Dr. Steinbergh stated that she understands Dr. Egner's take on that. She added that she has been using the alcoholism as a mitigating circumstance, but acknowledged that the Board doesn't have a good history of Dr. Douglas' impairment. She stated that this was not a con. Dr. Douglas did this intentionally. Years ago the Board saw another physician with similar circumstances, although the previous physician's circumstances were more egregious because he stole from the Cleveland Clinic's cardiac research funds. He stole money clearly for his personal use. At that time, the Board did order a stayed permanent revocation. Ultimately, this physician sold himself down the road again and the Board did ultimately permanently revoke his license. She again stated that she was using Dr. Douglas' alcoholism as a mitigating circumstance, but she does agree that the Board doesn't have a good, lengthy history of Dr. Douglas' alcoholism. Dr. Steinbergh added that she doesn't get the sense that Dr. Douglas was impaired at that time. She stated that she believes that Dr. Douglas, for whatever reason, decided to do this. Dr. Steinbergh stated that no one could convince her to do this.

A vote was taken on Dr. Egner's motion to amend:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- nay
	Mr. Browning	- nay
	Dr. Davidson	- aye
	Dr. Madia	- abstain
	Dr. Steinbergh	- nay
	Dr. Robbins	- aye

The motion carried.

Mr. Browning stated that his sense is that the statement made by the judge in both cases, saying that in fact there were mitigating circumstances, was important to the Hearing Examiner, and important if you don't favor permanent revocation. The judge wasn't very clear about it, but commented that

I think anybody watching this can't help to say why this happened, and actually reading some of the materials that I read in preparing for the sentence helped answer that question a little bit, with respect to some past relationships you had that I don't want to put in the public record or the alcohol issue, et cetera, and plus, as we all know, Mr. Sallee is a very persuasive man.

Mr. Browning stated that this suggests that Dr. Douglas was manipulated and conned, but, nevertheless, responsible for her actions and needed to be punished at some level. The Judge took into account some

significant mitigating circumstances. Mr. Browning stated that that's his sense from reading the Judge's statement. There were, in fact, intentional manipulations on the part of this individual and Dr. Douglas did things she should have never done. She should have known better. She has to be punished because of that. A severe sanction is in order because of her outrageous actions. The question is whether the severe sanction is "permanent revocation," or is Dr. Douglas, to some degree, a victim herself, that being a mitigating circumstance itself, and, given Dr. Douglas' history and commitment to recovery, does the Board want to give her an opportunity. The Hearing Examiner answered "yes" to that question. Mr. Browning stated that he read the case and thought that that was a reasonable conclusion. It was a leap of faith at some level, and may not happen. The Board may be letting someone walk on something who had more knowledge and intent where she should be permanently revoked, but that's where the judgment is.

Dr. Varyani stated that he did read this case thoroughly, and at one point representatives of the computer company actually talked to Dr. Douglas and asked her whether the computers were for the use of University Hospitals of Cleveland. Not only did Dr. Douglas telephonically say yes that they were for the use of University Hospitals of Cleveland, but she wrote a letter from her office, on University Hospital stationery, and said, "yes." Dr. Varyani questioned how a person as smart as Dr. Douglas can be manipulated to do that. He said that, unless it's blackmail, he doesn't understand this. In a similar situation the Board permanently revoked the license of a physician who stole some funds. This is total fraud created by using her position with the University Hospitals of Cleveland. Dr. Varyani stated that he thinks that Dr. Douglas is very smart, and that's why he feels the way he feels.

Mr. Browning stated that he appreciates that. He added that his only point would be that a judge sat through this process and came to a conclusion where mitigation was part of the final judgment. The Board isn't here to retry the case. This is part of the record. The Hearing Examiner thought it was important enough to write it down, although that doesn't mean that the Board has to agree with it. It appears, though, that it was a significant consequence. Without any mitigation, there would have been a different result in the trial.

Dr. Kumar stated that there were twelve members of a jury who sat and listened to all of the evidence at trial, and they, in the initial trial, could not convict her. There has to be something in the record that essentially says that she had some problem, but that she was manipulated significantly. Dr. Kumar stated that he's not minimizing the fact that Dr. Douglas signed the papers, sent letters or participated in a telephone conference call, but that can be manipulated. Dr. Kumar spoke against permanent revocation.

Dr. Robbins referred the Board to paragraph 11 of the Hearing Examiner's Summary of Evidence, which reads:

On August 17, 2004, prior to the second trial, Dr. Douglas signed an agreement to plead guilty to two counts of mail fraud and seven counts of wire fraud. In the plea agreement, Dr. Douglas stated that she "expressly and unequivocally admits that she, in fact, knowingly, intentionally and willfully committed the crimes charged in those counts of the Superseding

Indictment, and is, in fact, guilty of those offenses.”

Dr. Robbins stated that there’s absolutely nothing there about alcoholism. Dr. Robbins stated that he thinks it’s pretty clear that the Board is being manipulated. He stated that he feels strongly that revocation is in order.

Dr. Davidson stated that, although not mentioned by the judge, her understanding is that one of the mitigating circumstances for them was the fact that she had given credible and candid testimony, and that her testimony had been of substantial assistance to the government. That’s irrelevant to the Board. The Board is looking at Dr. Douglas and her use of her medical license. That’s why she voted for permanent revocation, even though she thinks that it’s terribly unfortunate.

DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MS. DAVIDSON’S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER, AS AMENDED, IN THE MATTER OF JANICE E. GREEN DOUGLAS, M.D. DR. DAVIDSON SECONDED THE MOTION. A vote was taken:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- nay
	Mr. Browning	- nay
	Dr. Davidson	- aye
	Dr. Madia	- abstain
	Dr. Steinbergh	- aye

Needing six votes to pass, the motion failed.

Ms. Schmidt advised that the Board will have to create a new order since the original order was amended and that amended order failed to pass.

DR. KUMAR MOVED TO ENTER THE FOLLOWING ORDER IN THE MATTER OF JANICE E. GREEN DOUGLAS, M.D.:

It is hereby ORDERED that:

- A. **PERMANENT REVOCATION, STAYED; SUSPENSION:** The certificate of Janice E. Green Douglas, M.D., to practice medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED. Such permanent revocation is STAYED, and Dr. Douglas’ certificate shall be SUSPENDED for an indefinite period of time, but not less than three years.

B. **INTERIM CONDITIONS, MONITORING:** During the period that Dr. Douglas' license is suspended, she shall comply with the following terms, conditions, and limitations:

1. **Obey the Law:** Dr. Douglas shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
2. **Personal Appearances:** Dr. Douglas shall appear in person for quarterly interviews before the Board or its designated representative. The first such appearance shall take place on the date of her next appearance pursuant to her Step 1 Consent Agreement with the Board, which she entered in April 2006. Subsequent personal appearances must occur every three months thereafter or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
3. **Quarterly Declarations:** Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on the date that her next quarterly declaration is due pursuant to her Step 1 Consent Agreement of April 2006. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
4. **Abstention from Drugs:** Dr. Douglas shall abstain completely from the personal use or possession of drugs, except those prescribed, administered, or dispensed to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependence.
5. **Abstention from Alcohol:** Dr. Douglas shall abstain completely from the use of alcohol.
6. **Drug & Alcohol Screens; Supervising Physician:** Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Douglas shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

The person or entity approved by the Board to serve as Dr. Douglas' supervising physician pursuant to the Step I Consent Agreement of April 2006 is hereby approved to serve as Dr. Douglas' designated supervising physician under this Order, unless within thirty days of the effective date of this Order, Dr. Douglas submits to the Board for its prior approval the name and curriculum vitae of an alternative supervising physician to whom Dr. Douglas shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in a locale near Dr. Douglas' residence or place of employment. Dr. Douglas and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

The Board expressly reserves the right to disapprove any person or entity proposed to serve as Dr. Douglas' designated supervising physician, or to withdraw approval of any person or entity previously approved to serve as Dr. Douglas' designated supervising physician, in the event that the Secretary and Supervising Member of the Board determine that any such supervising physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board in a format acceptable to the Board as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Order, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Douglas must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Douglas shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

7. **Submission of Blood or Urine Specimens upon Request**: Dr. Douglas shall submit blood and urine specimens for analysis without prior notice at such times as the Board may request, at Dr. Douglas' expense.
8. **Comply with the Terms of Treatment and Aftercare Contract**: Dr. Douglas shall maintain continued compliance with the terms of the aftercare contract entered into with her treatment provider, provided that, where terms of the aftercare contract conflicts with terms of this Order, the terms of this Order shall control.
9. **Rehabilitation Program**: Dr. Douglas shall maintain participation in an alcohol and drug rehabilitation program, such as Alcoholics Anonymous, N.A., C.A., or Caduceus, no less than three times per week or as otherwise ordered by the Board. Substitution of any other program must receive prior Board approval. Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program, which must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declarations.
10. **Continued Compliance with a Contract with an Impaired Physicians Committee**: Dr. Douglas shall maintain continued compliance with the terms of her contract with Ohio Physicians Health Program [OPHP] or other impaired-physicians committee approved by the Board, to assure continuous assistance in recovery and/or aftercare.
11. **Psychiatric Assessment/Treatment**: Within sixty days of the effective date of this Order, Dr. Douglas shall submit to the Board for its prior approval the name and curriculum vitae of a psychiatrist of Dr. Douglas' choice.

Upon approval by the Board, Dr. Douglas shall obtain from the approved psychiatrist an assessment of Dr. Douglas' current mental and psychiatric status. Prior to the initial assessment, Dr. Douglas shall furnish the approved psychiatrist copies of the Board's Order, including the Summary of the Evidence, Findings of Fact, Conclusions of Law, and Order, and any other documentation from the hearing record which the Board may deem appropriate or helpful to that psychiatrist.

Upon completion of the initial assessment, Dr. Douglas shall cause a written report to be submitted to the Board from the approved psychiatrist. The written report shall include:

- a. A detailed report of the evaluation of Dr. Douglas' current mental and psychiatric status and condition;

- b. A detailed plan of recommended psychiatric and/or psychological treatment, if any, based upon the psychiatrist's informed assessment of Dr. Douglas' current needs; and
- c. Any reports upon which the treatment recommendation is based, including reports of physical examination and psychological or other testing.

Should the Board-approved psychiatrist recommend treatment, and upon approval by the Board of the treatment plan, Dr. Douglas shall undergo and continue treatment as frequently as is recommended or as otherwise directed by the Board. The sessions shall be in person and may not be conducted by telephone or other electronic means. Dr. Douglas shall comply with her treatment plan, including taking medications as prescribed. Dr. Douglas shall provide a copy of this Order to all persons and entities that provide her treatment or monitoring for chemical dependence.

Dr. Douglas shall continue in treatment until such time as the Board determines that no further treatment is necessary. To make this determination, the Board shall require reports from the approved treating psychiatrist. The reports shall contain information describing Dr. Douglas' current treatment plan and any changes that have been made to the treatment plan since the prior report; Dr. Douglas' compliance with the treatment plan; Dr. Douglas' mental and emotional status; Dr. Douglas' progress in treatment; and results of any laboratory studies that have been conducted since the prior report.

Dr. Douglas shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for her quarterly declaration.

In addition, Dr. Douglas shall ensure that her treating psychiatrist and other treatment providers, if any, immediately notify the Board of Dr. Douglas' failure to comply with her treatment plan, and/or (during any probationary period) notify the Board immediately of any determination that Dr. Douglas is unable to practice due to her condition.

In the event that the designated psychiatrist becomes unable or unwilling to serve in this capacity, Dr. Douglas must immediately so notify the Board in writing and make arrangements acceptable to the Board for another psychiatrist as soon as practicable. Dr. Douglas shall further ensure that the previously designated psychiatrist also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

The Board expressly reserves the right to disapprove any psychiatrist proposed to serve as Dr. Douglas' designated treating psychiatrist, or to withdraw approval of any psychiatrist previously approved to serve as Dr. Douglas' designated treating psychiatrist, in the event that the Secretary and Supervising Member of the Board determine that any such psychiatrist has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

C. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions have been met:

1. **Application for Reinstatement or Restoration:** Dr. Douglas shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
2. **Compliance with Interim Conditions:** Dr. Douglas shall have maintained compliance with all the terms and conditions set forth in Paragraph B of this Order, unless otherwise determined by the Board.
3. **Demonstration of Ability to Resume Practice:** Dr. Douglas shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
 - a. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Douglas has successfully completed any required inpatient treatment.
 - b. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - c. Evidence of continuing full compliance with this Order.
 - d. Two written reports indicating that Dr. Douglas' ability to practice has been evaluated for chemical dependency and/or impairment and that she has been found capable of practicing according to acceptable and prevailing standards of care. The evaluations shall have been performed by individuals or providers approved by the Board for making such evaluations. Moreover, the

evaluations shall have been performed within sixty days prior to Dr. Douglas' application for reinstatement or restoration. The reports of evaluation shall describe with particularity the bases for the determination that Dr. Douglas has been found capable of practicing according to acceptable and prevailing standards of care and shall include any recommended limitations upon her practice.

4. **Reports of Evaluation**: Upon submission of her application for reinstatement or restoration, Dr. Douglas shall provide the Board with a written report of evaluation by a psychiatrist acceptable to the Board indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing in accordance with acceptable and prevailing standards of care. Such assessment shall have been performed within sixty days prior to submission of her application for reinstatement or restoration. The report shall describe with particularity the bases for this determination and shall set forth any recommended limitations upon Dr. Douglas' practice.
5. **Personal/Professional Ethics Course**: At the time she submits her application for reinstatement or restoration, Dr. Douglas shall provide acceptable documentation of successful completion of a course or courses dealing with personal and professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education periods in which they are completed.

In addition, at the time Dr. Douglas submits the documentation of successful completion of the course or courses dealing with personal and professional ethics, she shall also submit to the Board a written report describing the course, setting forth what she learned from the course, and identifying with specificity how she will apply what she has learned to her practice of medicine in the future.

6. **Absence from Practice**: In the event that Dr. Douglas has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to the submission of her application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Douglas' fitness to resume practice.

D. **PROBATIONARY CONDITIONS**: Upon reinstatement or restoration, Dr. Douglas' certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least five years:

1. **Obey Laws in Ohio**: Dr. Douglas shall obey all federal, state, and local laws; and all rules governing the practice of medicine in Ohio.
 2. **Terms, Conditions, and Limitations Continued from Suspension Period**: Dr. Douglas shall continue to be subject to the terms, conditions, and limitations specified in Paragraph B of this Order.
 3. **Tolling of Probationary Period While Out of State**: Dr. Douglas shall obtain permission from the Board for departures or absences from Ohio. Such periods of absence shall not reduce the probationary term, unless otherwise determined by motion of the Board for absences of three months or longer, or by the Secretary or the Supervising Member of the Board for absences of less than three months, in instances where the Board can be assured that probationary monitoring is otherwise being performed.
- E. **TERMINATION OF PROBATION**: Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Douglas' certificate will be fully restored.
- F. **RELEASES**: Dr. Douglas shall provide continuing authorization, through appropriate written consent forms, for disclosure by her treatment providers of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency, psychiatric condition and/or related conditions, or for purposes of complying with this Order, whether such treatment or evaluations occurred before or after the effective date of this Order. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute.
- G. **REQUIRED REPORTING BY LICENSEE TO EMPLOYERS AND HOSPITALS**: Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Douglas shall provide a copy of this Order to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt. The term "health care services" includes care or monitoring in connection with clinical research.
- H. **REQUIRED REPORTING BY LICENSEE TO OTHER STATE LICENSING**

AUTHORITIES: Within thirty days of the effective date of this Order, Dr. Douglas shall provide a copy of this Order by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Douglas shall also provide a copy of this Order by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement or restoration of any professional license. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.

- I. **SUPERSEDE PREVIOUS CONSENT AGREEMENT:** This Order shall supersede the terms and conditions set forth in the Step I Consent Agreement between Dr. Douglas and the Board, dated April 12, 2006.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of notification of approval by the Board.

DR. STEINBERGH SECONDED THE MOTION.

Dr. Kumar indicated that he would accept Mr. Browning's request for a three-year suspension, rather than a two-year suspension, as a friendly amendment to his Proposed Order.

Dr. Egner asked what the problem is with remanding this matter back to the Hearing Examiner. She noted that the Board is having a terrible time coming to a conclusion on a very serious case. Half the members present want permanent revocation and the other half want a sanction that she feels is pretty light.

Mr. Browning noted that alcohol is talked about in the court record. The Judge talked about it when she sentenced Dr. Douglas. It's not like the information is nowhere in the record. It's not like there's no evidence of anybody talking about alcohol. It appears very clearly that the Judge thinks that alcohol is part of the picture, and that's why she chose the sentence she chose. Mr. Browning stated that he doesn't know how one can reach another conclusion. How can you look at the record and then say that alcohol is irrelevant. He acknowledged that the Board doesn't have evidence that it was a contributing factor, but he does feel that it is relevant that the Judge referenced it.

Dr. Kumar added that a stayed permanent revocation with a minimum three-year suspension is not a light sanction.

Mr. Browning commented that he wouldn't be shocked if it was equivalent to taking Dr. Douglas out of practice permanently. He stated that three years out of practice is a long time, and taking the SPEX is a big deal, particularly when one is at the end of one's career and has been out of practice for three years.

Dr. Steinbergh stated that, before she came on the Board, the Board imposed a similar sanction on a

physician who had other problems. The Board stayed a permanent revocation and suspended the physician's license for five years. That physician never could come back into practice again. It is something that the Board can consider. If it's the Board's intention that permanent revocation is not something that is palatable to everyone, then a longer suspension time does protect the public and does have meaning in Dr. Douglas' life. If after three years, she passes the SPEX and wants to have her license, that's what the Board has said she can do. Dr. Steinbergh stated that it seems to her that in her particular role at this point, she does not need a medical license to do what she does.

Mr. Browning stated that he would be willing to vote for permanent revocation to break the deadlock, but he just feels that the Court's judgment is important; and it's obvious to him that they believed that there were mitigating circumstances that went beyond cutting a deal and testifying against other people.

Dr. Egner stated that she appreciates what Mr. Browning is saying. Dr. Egner stated that she would not vote for permanent revocation, nor would she want anyone else to do so, unless that member feels very, very comfortable in doing so. If you're weighing for or against, and are not sure, you should never vote for permanent revocation. She stated that she will vote for the Proposed Order and feel comfortable with it.

A vote was taken on Dr. Kumar's motion:

Vote:	Mr. Albert	- abstain
	Dr. Egner	- aye
	Dr. Talmage	- abstain
	Dr. Varyani	- aye
	Dr. Kumar	- aye
	Mr. Browning	- aye
	Dr. Davidson	- aye
	Dr. Madia	- aye
	Dr. Steinbergh	- aye

The motion carried.

STATE MEDICAL BOARD
OF OHIO

2006 APR 12 P 12: 04

STEP I
CONSENT AGREEMENT
BETWEEN
JANICE ELECTA GREEN DOUGLAS, M.D.
AND
THE STATE MEDICAL BOARD OF OHIO

This Consent Agreement is entered into by and between Janice Electa Green Douglas, M.D., aka Janice Baltimore, M.D., [hereinafter Dr. Douglas] and the State Medical Board of Ohio [Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Douglas enters into this Consent Agreement being fully informed of her rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(26), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for "impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice."
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(26), Ohio Revised Code, as set forth in Paragraph E below, and expressly reserves the right to institute and/or otherwise pursue formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement. Such express reservation includes, but is not limited to, the right to continue to pursue by separate action the administrative matter currently pending concerning Dr. Douglas' alleged violations of Sections 4731.22(B)(5), 4731.22(B)(8), and 4731.22(B)(9), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing issued by the Board to Dr. Douglas on or about July 13, 2005, regardless of whether the acts underlying such alleged violations are related to violation of Section 4731.22(B)(26), Ohio Revised Code, as described herein.
- C. Dr. Douglas is licensed to practice medicine and surgery in the State of Ohio, License # 35-039559.

STATE MEDICAL BOARD
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- D. Dr. Douglas states that she is not licensed to practice medicine and surgery in any other jurisdiction.
- E. Dr. Douglas admits that on or about March 20, 2006, pursuant to Board Order, she entered Shepherd Hill, a Board-approved treatment provider in Newark, Ohio, for the purpose of undergoing a three-day inpatient evaluation for determining whether she is in violation of Section 4731.22(B)(26), Ohio Revised Code. Dr. Douglas further admits that, as a result of this evaluation, she was diagnosed with Alcohol Dependence; that she was determined to be impaired in her ability to practice medicine and surgery; and that an inpatient level of care was recommended for a minimum of twenty-eight days. Dr. Douglas further admits that on or about March 27, 2006, she entered residential treatment at Shepherd Hill, and that such treatment remains ongoing at this time.

Dr. Douglas admits that, prior to submitting to the aforementioned Board-ordered evaluation at Shepherd Hill, she was twice previously evaluated related to chemical dependency. Dr. Douglas admits that on or about May 19, 2005, she voluntarily submitted to an outpatient evaluation for chemical dependency at Glenbeigh Hospital, a Board-approved treatment provider in Rock Creek, Ohio; that as a result of such evaluation, she was diagnosed with Alcohol Dependence; and that an inpatient level of care was recommended for at least twenty-eight days. Dr. Douglas further admits that she failed to enter such recommended treatment; and that, at that time, she failed to report to the Board her failure to enter such treatment.

Dr. Douglas further admits that on or about July 12, 2005, she submitted to a court-ordered outpatient evaluation for substance abuse by Fresh Start, Inc., a treatment provider not approved by this Board, in Cleveland, Ohio; that as a result of such evaluation she was diagnosed with Alcohol Dependence; and that certain treatment and monitoring conditions were recommended, including that she abstain completely from alcohol and submit to random urine screening for drugs and alcohol. Dr. Douglas further admits that she thereafter undertook six outpatient individual substance abuse counseling sessions, after which her primary counselor determined that she no longer needed any further alcohol treatment at that time.

Additionally, Dr. Douglas states and acknowledges she understands that the Board intends to continue to pursue by separate action the administrative matter currently pending concerning Dr. Douglas' alleged violations of Sections 4731.22(B)(5), 4731.22(B)(8), and 4731.22(B)(9), Ohio Revised Code, as set forth in the Notice of Opportunity for Hearing issued by the Board to Dr. Douglas on or about July 13, 2005, even if such violations arise from the same common nucleus of operative fact as outlined within this Consent Agreement addressing the issue of Dr. Douglas' alcohol dependence. Dr. Douglas further states and acknowledges that she understands that subsequent Board Orders may supersede this Step I Consent Agreement and may result in further

discipline, up to and including permanent revocation of her license to practice medicine in Ohio.

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2006 APR 12 P 12:00

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Douglas knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Douglas to practice medicine and surgery in the State of Ohio shall be **SUSPENDED** for an indefinite period of time.

Sobriety

2. Dr. Douglas shall abstain completely from the personal use or possession of drugs, except those prescribed, dispensed or administered to her by another so authorized by law who has full knowledge of Dr. Douglas' history of chemical dependency.
3. Dr. Douglas shall abstain completely from the use of alcohol.

Releases; Quarterly Declarations and Appearances

4. Dr. Douglas shall provide authorization, through appropriate written consent forms, for disclosure of evaluative reports, summaries, and records, of whatever nature, by any and all parties that provide treatment or evaluation for Dr. Douglas' chemical dependency or related conditions, or for purposes of complying with this Consent Agreement, whether such treatment or evaluation occurred before or after the effective date of this Consent Agreement. The above-mentioned evaluative reports, summaries, and records are considered medical records for purposes of Section 149.43 of the Ohio Revised Code and are confidential pursuant to statute. Dr. Douglas further agrees to provide the Board written consent permitting any treatment provider from whom she obtains treatment to notify the Board in the event she fails to agree to or comply with any treatment contract or aftercare contract. Failure to provide such consent, or revocation of such consent, shall constitute a violation of this Consent Agreement.
5. Dr. Douglas shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the sixteenth day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent

STATE MEDICAL BOARD
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quarterly declarations must be received in the Board's offices on or before the first day of every third month.

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6. Dr. Douglas shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Drug & Alcohol Screens; Supervising Physician

7. Dr. Douglas shall submit to random urine screenings for drugs and alcohol on a weekly basis or as otherwise directed by the Board. Dr. Douglas shall ensure that all screening reports are forwarded directly to the Board on a quarterly basis. The drug testing panel utilized must be acceptable to the Secretary of the Board.

Dr. Douglas shall abstain from consumption of poppy seeds or any other food or liquid that may produce false results in a toxicology screen.

Within thirty days of the effective date of this Consent Agreement, Dr. Douglas shall submit to the Board for its prior approval the name of a supervising physician to whom Dr. Douglas shall submit the required urine specimens. In approving an individual to serve in this capacity, the Board will give preference to a physician who practices in the same locale as Dr. Douglas. Dr. Douglas and the supervising physician shall ensure that the urine specimens are obtained on a random basis and that the giving of the specimen is witnessed by a reliable person. In addition, the supervising physician shall assure that appropriate control over the specimen is maintained and shall immediately inform the Board of any positive screening results.

Dr. Douglas shall ensure that the supervising physician provides quarterly reports to the Board, in a format acceptable to the Board, as set forth in the materials provided by the Board to the supervising physician, verifying whether all urine screens have been conducted in compliance with this Consent Agreement, whether all urine screens have been negative, and whether the supervising physician remains willing and able to continue in his or her responsibilities.

In the event that the designated supervising physician becomes unable or unwilling to so serve, Dr. Douglas must immediately notify the Board in writing, and make arrangements acceptable to the Board for another supervising physician as soon as practicable. Dr. Douglas shall further ensure that the previously designated supervising physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefore.

STATE MEDICAL BOARD

All screening reports and supervising physician reports required under this paragraph must be received in the Board's offices no later than the due date for Dr. Douglas' quarterly declaration. It is Dr. Douglas' responsibility to ensure that reports are timely submitted.

8. The Board retains the right to require, and Dr. Douglas agrees to submit, blood or urine specimens for analysis at Dr. Douglas' expense upon the Board's request and without prior notice.

Rehabilitation Program

9. Within thirty days of the effective date of this Consent Agreement, Dr. Douglas shall undertake and maintain participation in an alcohol and drug rehabilitation program, such as A.A., N.A., C.A., or Caduceus, no less than three times per week. Substitution of any other specific program must receive prior Board approval.

Dr. Douglas shall submit acceptable documentary evidence of continuing compliance with this program which must be received in the Board's offices no later than the due date for Douglas' quarterly declarations.

CONDITIONS FOR REINSTATEMENT

10. The Board shall not consider reinstatement of Dr. Douglas' certificate to practice medicine and surgery until all of the following conditions are met:
 - a. Dr. Douglas shall submit an application for reinstatement, accompanied by appropriate fees, if any.
 - b. Dr. Douglas shall demonstrate to the satisfaction of the Board that she can resume practice in compliance with acceptable and prevailing standards of care under the provisions of her certificate. Such demonstration shall include but shall not be limited to the following:
 - i. Certification from a treatment provider approved under Section 4731.25 of the Revised Code that Dr. Douglas has successfully completed any required inpatient treatment.
 - ii. Evidence of continuing full compliance with a post-discharge aftercare contract with a treatment provider approved under Section 4731.25 of the Revised Code. Such evidence shall include, but not be limited to, a copy of the signed aftercare contract. The aftercare contract must comply with rule 4731-16-10 of the Administrative Code.
 - iii. Evidence of continuing full compliance with this Consent Agreement.

STATE MEDICAL BOARD
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- iv. Two written reports indicating that Dr. Douglas' ability to practice has been assessed and that she has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by physicians knowledgeable in the area of addictionology and who are either affiliated with a current Board-approved treatment provider or otherwise have been approved in advance by the Board to provide an assessment of Dr. Douglas. Prior to the assessments, Dr. Douglas shall provide the evaluators with copies of patient records from any evaluations and/or treatment that she has received, and a copy of this Consent Agreement. The reports from the evaluators shall include any recommendations for treatment, monitoring, or supervision of Dr. Douglas, and any conditions, restrictions, or limitations that should be imposed on Dr. Douglas' practice. The reports shall also describe the basis for the evaluator's determinations.

All reports required pursuant to this paragraph shall be based upon examinations occurring within the three months immediately preceding any application for reinstatement.

- c. Dr. Douglas shall enter into a written consent agreement including probationary terms, conditions and limitations as determined by the Board or, if the Board and Dr. Douglas are unable to agree on the terms of a written Consent Agreement, then Dr. Douglas further agrees to abide by any terms, conditions and limitations imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Ohio Revised Code.

Further, upon reinstatement of Dr. Douglas' certificate to practice medicine and surgery in this state, the Board shall require continued monitoring which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by Board Order after a hearing conducted pursuant to Chapter 119. of the Revised Code. Moreover, upon termination of the consent agreement or Board Order, Dr. Douglas shall submit to the Board for at least two years annual progress reports made under penalty of Board disciplinary action or criminal prosecution stating whether Dr. Douglas has maintained sobriety.

11. In the event that Dr. Douglas has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of Dr. Douglas' fitness to resume practice.

REQUIRED REPORTING BY LICENSEE

STATE MEDICAL BOARD
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12. Within thirty days of the effective date of this Consent Agreement, Dr. Douglas shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which she currently holds any professional license. Dr. Douglas further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which she applies for any professional license or reinstatement of any professional license. Further, Dr. Douglas shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
13. Within thirty days of the effective date of this Consent Agreement, Dr. Douglas shall provide a copy of this Consent Agreement to all employers or entities with which she is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where she has privileges or appointments. Further, Dr. Douglas shall provide a copy of this Consent Agreement to all employers or entities with which she contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where she applies for or obtains privileges or appointments.
14. Dr. Douglas shall provide a copy of this Consent Agreement to all persons and entities that provide Dr. Douglas' chemical dependency treatment or monitoring.

The above-described terms, conditions and limitations may be amended or terminated in writing at any time upon the agreement of both parties.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Douglas appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Douglas acknowledges that she has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Douglas hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Consent Agreement shall be considered a part of the information used in Section 149.43, Ohio Revised Code. Further, this information may be reported to appropriate organizations, data banks and governmental bodies. Dr. Douglas acknowledges that her social security number will be used if this information is so reported and agrees to provide her social security number to the Board for such purposes.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below.

Janice Douglas
JANICE ELECTA GREEN DOUGLAS, M.D.

Lance A. Talmage MD
LANCE A. TALMAGE, M.D.
Secretary

4/12/06
DATE

4-12-06
DATE

KP BYERS
KEVIN P. BYERS
Attorney for Dr. Douglas

Raymond J. Albert
RAYMOND J. ALBERT
Supervising Member

4/12/06
DATE

4/12/06
DATE

Charles A. Woodbeck
CHARLES A. WOODBECK
Enforcement Attorney

4/12/06
DATE



State Medical Board of Ohio

77 S. High St., 17th Floor • Columbus, OH 43215-6127 • (614) 466-3934 • Website: www.med.ohio.gov

July 13, 2005

Janice Electa Green Douglas, M.D.
aka Janice Baltimore
41 Haskell Drive
Bratenahl, Ohio 44108

Dear Doctor Douglas:

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

- (1) On or about October 21, 2004, in the United States District Court, District of Massachusetts, you pleaded guilty to two (2) felony counts of Mail Fraud, in violation of 18 USC §1341, and seven (7) felony counts of Wire Fraud, in violation of 18 USC §1343. Subsequently, on or about March 30, 2005, you were found guilty and sentenced to probation for a term of 24 months and a criminal monetary penalty of a fine in the amount of \$7,500.

Pursuant to Rule 4731-13-24, Ohio Administrative Code, a certified copy of a plea of guilty to, or a judicial finding of guilt, of any crime in a court of competent jurisdiction is conclusive proof of the commission of all of the elements of that crime.

The underlying conduct is provided in detail in the Superseding Indictment, Plea Agreement and Judgment in a Criminal Case, copies of which are attached hereto and incorporated herein.

Your acts, conduct, and/or omissions, as alleged in paragraph one (1) above, individually and/or collectively, constitute “[m]aking a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any certificate to practice or certificate of registration issued by the board,” as that clause is used in R.C. 4731.22(B)(5).

Further, your acts, conduct, and/or omissions, as alleged in paragraph one (1) above, individually and/or collectively, constitute “[t]he obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice,” as that clause is used in R.C. 4731.22(B)(8).

Further, your plea of guilty to, and/or the judicial finding of guilt, as alleged in paragraph one (1) above, individually and/or collectively, constitute “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony,” as that clause is used in R.C. 4731.22(B)(9).

Mailed 7.14.05

Janice Electa Green Douglas, M.D.
aka Janice Baltimore
Page 2

Pursuant to R.C. Chapter 119., 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 days of the time of mailing of this notice.

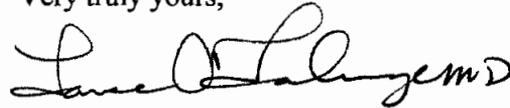
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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 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, permanently revoke, suspend, refuse to register or reinstate your certificate to practice medicine and surgery or to reprimand you or place you on probation.

Please note that, whether or not you request a hearing, R.C. 4731.22(L), provides that "[w]hen the board refuses to grant a certificate to an applicant, revokes an individual's certificate to practice, refuses to register an applicant, or refuses to reinstate an individual's certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a certificate to practice and the board shall not accept an application for reinstatement of the certificate or for issuance of a new certificate."

Copies of the applicable sections are enclosed for your information.

Very truly yours,



Lance A. Talmage, M.D.
Secretary

LAT/cw
Enclosures

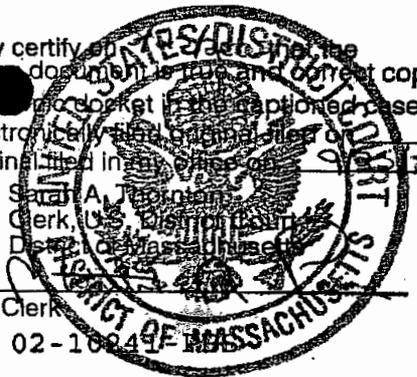
CERTIFIED MAIL # 7003 0500 0002 4333 3287
RETURN RECEIPT REQUESTED

A. John Pappalardo
Greenberg Traurig LLP
One International Place, 3rd Floor
Boston, Massachusetts 02110

CERTIFIED MAIL # 7003 0500 0002 4340 6455
RETURN RECEIPT REQUESTED

ORIGINAL

I hereby certify that the foregoing document is true and correct copy of the original filed in this case.
 electronically filed original filed on
 original filed in



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Sarah A. Johnson
Clerk, U.S. District Court
District of Massachusetts

By: _____
Deputy Clerk

UNITED STATES OF AMERICA)

v.)

LERROY ANTHONY SALLEE,)
JANICE DOUGLAS,)
aka JANICE BALTIMORE,)
HERBERT H. CATES,)
DENNIS P. MCINTOSH,)
Defendants.)

CRIMINAL NO. 02-10247
VIOLATIONS:
18 U.S.C. § 1341 - Mail Fraud
18 U.S.C. § 1343 - Wire Fraud
18 U.S.C. § 2314 - Interstate
Transportation of Stolen
Property

OHIO STATE MEDICAL BOARD

SUPERSEDING INDICTMENT

DOCKETED
MAY 31 2005

The Grand Jury charges:

At all times material to this indictment:

Persons and Entities

1. LEROY ANTHONY SALLEE ("SALLEE") was an individual whose last known residence was located at 608 Lincoln Street, Middletown, Ohio. SALLEE did business in the name S Systems, Inc. ("S Systems"), an Ohio corporation which has been cancelled since 1995.

2. HERBERT H. CATES ("CATES") was an individual whose last known residence was located at 1515 North 78th Street, Kansas City, Kansas. At times material to this indictment, CATES was employed as an account executive by Missouri Information Solutions, Inc. in Kansas City, Missouri, an authorized reseller of Compaq equipment.

3. JANICE DOUGLAS ("DOUGLAS"), a/k/a JANICE BALTIMORE, was an individual residing in Bratenhall, Ohio, and was employed as a

(13)

medical school professor and Director of the Hypertension Unit at Case Western Reserve University's Medical School in Cleveland, Ohio.

4. DENNIS P. MCINTOSH ("MCINTOSH") was an individual residing at 5524 NE Oaks Ridge Lane, Lee's Summit, Missouri. On or about January 31, 2002, MCINTOSH entered into a Consulting Agreement with S Systems, pursuant to which MCINTOSH was engaged as an "Independent Business Development Consultant" for the purpose, among others, of providing services to complete hardware purchases between S Systems and current customers. S Systems agreed to pay MCINTOSH \$8,000 for his services.

5. Compaq Computer Corp. ("Compaq") was a business corporation duly organized under the laws of Delaware, with several places of business in Massachusetts, including in Marlboro and Littleton. Compaq is a manufacturer of computer equipment.

Scheme to Defraud

6. From in or about January 2002 through in or about March 2002, the defendants engaged in a common scheme to defraud Compaq Computer Corp. by ordering thousands of units of computer equipment at steeply discounted prices under the false pretense that the end-user for such equipment was the Medical School at Case Western Reserve University. Under Compaq discount programs known as GEM, which is applicable to sales to government,

educational, and military institutions, and TOSS ("Targeted Opportunity Sales Strategy") pricing generally used to offer a very favorable bid in order to win an attractive new customer, the discounted purchase price of the Compaq computer equipment defendants ordered totaled \$3,148,200. The ordinary purchase price of the equipment was over \$5 million. Defendants fraudulently induced Compaq Computer Corp. to sell the equipment at such a steeply discounted price by representing that the end-user was Case Western Reserve University, an educational institution which was not a previous user of Compaq equipment.

7. In fact, the defendants never intended for Case Western Reserve University to take delivery of the computer hardware. They anticipated that the equipment would be delivered into SALLEE's custody and control for resale on the so-called "gray market" to specific, known end-users abroad who were not entitled to participate in the discount programs. The "gray market" for Compaq equipment refers to distribution channels that are outside the network of Compaq-authorized dealers and resellers.

8. It was part of the scheme for the parties to collaborate in fabricating an elaborate story according to which DOUGLAS, ostensibly on behalf of the Medical School at Case Western Reserve University, was responsible for a research grant issued by a major drug manufacturer about to obtain FDA approval for a new product. The research grant required the collection of

testing data in 300 different cities across the United States, and therefore required 300 computer servers, as well as thousands of hard drives and other pieces of equipment.

9. It was further part of the scheme for CATES, in his capacity as an account executive for Missouri Information Solutions, which was an authorized reseller of Compaq computer equipment, to negotiate with Compaq the details of the transaction, including the TOSS pricing.

10. It was further part of the scheme for the participants to describe SALLEE's role in the transaction as the "integrator" of the equipment, and a "consultant" to DOUGLAS in connection with utilization of the equipment, in order to justify the delivery of the equipment to his warehouse premises in Tewksbury, Massachusetts rather than to Case Western Reserve University.

11. It was further part of the scheme for the participants to describe MCINTOSH's role as "Project Manager."

12. It was further part of the scheme for the defendants to collaborate on the preparation of documents needed to complete the purchase of equipment from Compaq. These included a letter from DOUGLAS requesting a price quote, a letter explaining the purpose of the equipment, a detailed part list, and after Compaq provided a price quote, a purchase order and cover letter from DOUGLAS on Case Western Reserve University letterhead.

13. It was further part of the scheme for DOUGLAS, SALLEE,

and MCINTOSH, on or about February 18, 2002, to engage in a telephone conversation with a representative of Compaq to answer questions about the purchase. The defendants confirmed that the equipment was for a Case Western Reserve University Medical School project.

14. It was further part of the scheme for the defendants to issue a purchase order, dated February 25, 2002, to Compaq for thousand of items of computer equipment on behalf of Case Western Reserve University, at a purchase price of \$3,148,200.

15. The February 25, 2002 cover letter, which DOUGLAS, ostensibly on behalf of Case Western Reserve University, sent to Compaq, instructed Compaq that "our systems contractor for the project, S Systems, Inc., is authorized to accept delivery of the equipment. Questions regarding the equipment order should be directed to S Systems for resolution and handling . . .".

16. It was further part of the scheme to prescribe a warehouse, which was under SALLEE's control, located in Tewksbury, Massachusetts, for delivery of the Compaq equipment.

17. It was further part of the scheme for defendants to misrepresent to Compaq that payment would be made through a Case Western Reserve University "endowment trust fund" account which in fact was an unfunded IOLTA escrow account set up by SALLEE with an attorney.

18. It was further part of the scheme for the defendants to

take steps to prevent Compaq from contacting Case Western Reserve University except through DOUGLAS, and to provide DOUGLAS with a script to use in responding to Compaq's questions about the proposed sale.

19. In fact, as the defendants knew and intended, Case Western Reserve University did not issue or authorize a purchase order for the equipment and its purchasing officials had no knowledge of the transaction. DOUGLAS was not authorized to engage in the transaction with Compaq on behalf of Case Western Reserve University.

20. It was further part of the scheme for defendant SALLEE, who was not an authorized dealer or reseller of Compaq equipment, to sell the Compaq equipment to customers in Canada, Nashville, Tennessee, and Great Britain, for use and resale to ultimate end-users abroad.

21. As a result of the scheme, SALLEE received over \$2 million in proceeds from the sale and shipment of the Compaq equipment, but made no payment to Compaq on the fraudulent Case Western Reserve University invoice. Instead, SALLEE distributed a portion of the proceeds to pay personal debts, to purchase a new Lexus car, to pay DENNIS MCINTOSH his consulting fee in the amount of \$8,000, to pay HERBERT H. CATES on his invoice in the amount of \$10,000 for his role in the scheme, and to pay \$6,000 to a relative of JANICE DOUGLAS.

COUNTS ONE - THREE: 18 U.S.C. § 1341 - Mail Fraud

22. The allegations contained in paragraphs 1 through 21 are repeated and incorporated herein by reference.

23. On or about each of the dates set forth below, at Tewksbury, in the District of Massachusetts, and elsewhere,

LEROY ANTHONY SALLEE,
HERBERT H. CATES,
DENNIS P. MCINTOSH,
and
JANICE DOUGLAS,

defendants herein, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place and cause to be placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carrier, and did take and receive and cause to be taken and received therefrom matters and things, and did knowingly cause to be delivered by mail and such carrier according to the direction thereon, and at the place at which it is directed to be delivered by the person to whom it is addressed, matters and things, as described below:

COUNT	DATE	DESCRIPTION
2	February 13, 2002	FedEx package from Leroy Anthony Sallee, S Systems, 1500 Shawsheen Street, Tewksbury, MA 01877 to Dr. Janice Douglas, Case Western Reserve Univ., 10900 Euclid Ave., Cleveland, OH 44106
3	February 18, 2002	FedEx package from Janice Douglas, CWRU Med School, W165 - SOM, Cleveland, Ohio 44106 to S. Systems, Inc., A. Sallee, 1500 Shawsheen St., Tewksbury, MA 01876

Each in violation of Title 18, United States Code, Sections 1341 and 2.

The Grand Jury further charges:

COUNTS FOUR - FOURTEEN: 18 U.S.C. § 1343 - Wire Fraud

24. The allegations contained in paragraphs 1 through 21 are repeated and incorporated herein by reference.

25. On or about each of the dates set forth below, at Tewksbury, and elsewhere in the District of Massachusetts,

LEROY ANTHONY SALLEE,
HERBERT H. CATES,
DENNIS P. MCINTOSH,
and
JANICE DOUGLAS,

defendants herein, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, as described below:

COUNT	DATE	DESCRIPTION
5	January 31, 2002	Facsimile transmission of Consulting Agreement from Dennis McIntosh [(816)478-1486] to Anthony Sallee [(978)851-2700]

6	February 18, 2002	Telephone call from Dennis McIntosh [(816)478-1435] to Leroy Anthony Sallee at [(978)640-9197]
7	February 18, 2002	Telephone conference call from Leroy Anthony Sallee in Tewksbury, MA to Janice Douglas, Dennis McIntosh, another individual, and Mark Dennis, a Compaq representative
8	February 21, 2002	Telephone conference call from Leroy Anthony Sallee in Tewksbury, MA to Dennis McIntosh, Mark Dennis, and another individual.
10	February 25, 2002	Facsimile transmission from Janice Douglas [(216)368-4752] to Anthony Sallee at [(978)851-2700] of Purchase Order and Cover Letter to Compaq Computer Corp.
12	March 15, 2002	Cell phone call from Janice Douglas [(216)406-8899] to Leroy Anthony Sallee in Tewksbury, MA [(978) 851-5617]
13	March 15, 2002	Facsimile transmission from Janice Douglas, Kinko's Marriott Marquis, Atlanta, Georgia [(404)586-6299] to Anthony Sallee in Tewksbury, MA

Each in violation of Title 18, United States Code, Section

1343 and 2.

FORFEITURE ALLEGATIONS

(18 U.S.C. § 982(a)(1)(c) and 28 U.S.C. § 2461(c))

28. As a result of the offenses charged in Counts One - Thirteen of this Indictment,

LEROY ANTHONY SALLEE,
HERBERT H. CATES,
and
DENNIS P. MCINTOSH,

defendants herein, shall forfeit all property, real or personal, which constitutes, or is derived from, proceeds traceable to the commission of the offense, including but not limited to:

- (a) \$1,829,867.20 in United States currency;
- (b) one 1999 Lexus Station Wagon RX300, bearing Vehicle Identification Number JT6HF10U2X0051060, and registered in the name of Vicki Jervis;
- (c) \$10,000 paid to HERBERT H. CATES; and
- (d) \$8,000 paid to DENNIS P. MCINTOSH.

29. As a result of the offense charged in Count Fourteen of this Indictment,

LEROY ANTHONY SALLEE,

defendant herein, shall forfeit all property, real or personal, which constitutes, or is derived from, proceeds traceable to the commission of the offense, including but not limited to:

- (a) \$1,829,867.20 in United States currency; and
- (b) one 1999 Lexus Station Wagon RX300, bearing Vehicle Identification Number JT6HF10U2X0051060, and registered in the name of Vicki Jervis.

30. If any of the above-described forfeitable property,

as a result of any act or omission of the defendants or any of them:

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred, sold to, or deposited with a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

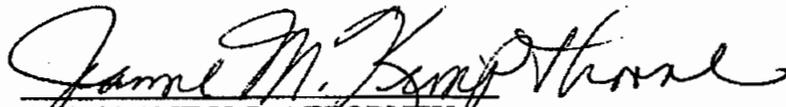
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c).

A TRUE BILL



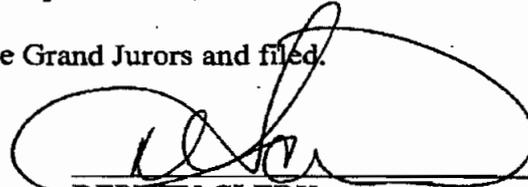
FOREPERSON OF THE GRAND JURY



ASSISTANT U.S. ATTORNEY

DISTRICT OF MASSACHUSETTS; September 25, 2002.

Returned into the District Court by the Grand Jurors and filed.



DEPUTY CLERK

11:45 A.M.



I hereby certify that the foregoing document is true and correct copy of the

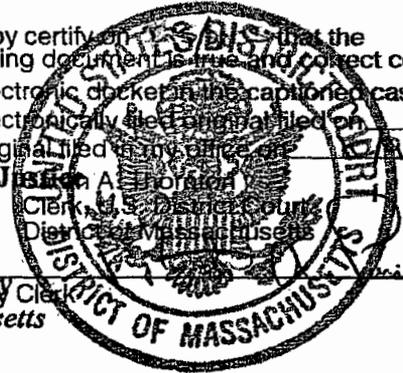
electronic docket in the captioned case

electronically filed on

original filed in my office on 10/21/2004

U.S. Department of Justice

Michael J. Sullivan
 United States Attorney
 District of Massachusetts



Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
 1 Courthouse Way
 Suite 9200
 Boston, Massachusetts 02210

July 28, 2004

A. John Pappalardo, Esquire
 Greenberg Traurig LLP
 1 International Place
 Boston, MA 02110

FILED
 In Open Court
 USDC, Mass.
 Date 10/21/04
 By [Signature]
 Deputy Clerk

Re: United States v. Janice Douglas
 Criminal No. 02-10241-PBS

Dear Mr. Pappalardo:

This letter sets forth the Agreement between the United States Attorney for the District of Massachusetts ("the U.S. Attorney") and your client, Janice G. Douglas ("Defendant"), in the above-captioned case. The Agreement is as follows:

1. Withdrawal of Appeal and Change of Plea

Immediately following the execution of this Agreement, the Defendant shall withdraw her appeal, No. 03-2566, presently pending in the United States Court of Appeals for the First Circuit, from the district court's denial of her motion to dismiss the indictment in this case on double jeopardy grounds.

At the earliest practicable date, Defendant shall plead guilty to counts 2, 3-8, 10 and 12-14 of the Superseding Indictment in the above-referenced case. Defendant expressly and unequivocally admits that she, in fact, knowingly, intentionally and willfully committed the crimes charged in those counts of the Superseding Indictment, and is, in fact, guilty of those offenses.

(percent 4 + 14) per

2. Penalties

Defendant faces the following penalties for each of these offenses: five years of incarceration, a \$250,000 fine, three

years of supervised release, a \$100 special assessment and restitution for the full amount of the loss caused by these offenses.

3. Sentencing Guidelines

The parties will take the following positions at sentencing under the United States Sentencing Guidelines:

a. the applicable offense guideline is §2B1.1, as it existed as of November 1, 2001.

b. the United States believes the loss applicable to these offenses is more than \$2.5 million, but less than \$7 million, and that the offense level should be increased by 18 levels, pursuant to §2B1.1(b)(1)(J). The Defendant is free to advocate any position she deems appropriate with regard to loss.

c. the United States believes a two level enhancement is applicable, pursuant to §2B1.1(b)(7)(A), because the offense involved a misrepresentation that the Defendant was acting on behalf of an educational organization. The Defendant objects to this enhancement.

d. the offense level should be decreased by three levels pursuant to §3E1.1(a) and (b) for acceptance of responsibility.

Based on Defendant's prompt acceptance of personal responsibility for the offense(s) of conviction in this case, and information known to the U.S. Attorney at this time, the U.S. Attorney agrees to recommend that the Court reduce by three levels Defendant's Adjusted Offense Level under U.S.S.G. § 3E1.1.

The U.S. Attorney specifically reserves the right not to recommend a reduction under U.S.S.G. § 3E1.1 if, at any time between her execution of this Agreement and sentencing Defendant:

- (a) Fails to admit a complete factual basis for the plea;
- (b) Fails to truthfully admit her conduct in the offenses of conviction;
- (c) Falsely denies, or frivolously contests, relevant conduct for which Defendant is accountable under U.S.S.G. § 1B1.3;

- (d) Fails to provide truthful information about her financial status;
- (e) Gives false or misleading testimony in any proceeding relating to the criminal conduct charged in this case and any relevant conduct for which Defendant is accountable under U.S.S.G. § 1B1.3;
- (f) Engages in acts which form a basis for finding that Defendant has obstructed or impeded the administration of justice under U.S.S.G. § 3C1.1;
- (g) Intentionally fails to appear in Court or violates any condition of release;
- (h) Commits a crime;
- (i) Transfers any asset protected under any provision of this Agreement; and/or
- (j) Attempts to withdraw her guilty plea.

Defendant expressly understands that she may not withdraw her plea of guilty if, for any of the reasons listed above, the U.S. Attorney does not recommend that she receive a reduction in Offense Level for acceptance of responsibility.

Defendant expressly understands that, in addition to declining to recommend an acceptance-of-responsibility adjustment, the Government may seek an upward adjustment pursuant to U.S.S.G. § 3C1.1 if Defendant obstructs justice after date of this Agreement.

The Defendant acknowledges that she is aware of the recent Supreme Court opinion in Blakley v. Washington, 2004 WL 1402697 (2004), which relates to the Sixth Amendment right to trial by jury and its application to sentencing guidelines, and that she has consulted with her legal counsel regarding its application to her case. Notwithstanding that decision, the Defendant hereby waives all constitutional challenges she may have to the application of the Federal Sentencing Guidelines to her case. The Defendant waives any claim she might have that the facts that determine her guideline sentencing range (including facts that support any specific offense characteristic, specific offender enhancement, other upward adjustment and the Defendant's criminal history category) must be alleged in the indictment and found by a jury beyond a reasonable doubt. The Defendant agrees that

facts that determine her guideline sentencing range shall be found by the sentencing judge, not a jury; by a preponderance of the evidence standard, not proof beyond a reasonable doubt; and that the sentencing judge may consider any reliable evidence, including hearsay, in determining facts relating to the Sentencing Guidelines.

4. Sentence Recommendation

The U.S. Attorney agrees to recommend the following sentence before the District Court:

- (a) Incarceration at the low end of the applicable guideline sentencing range;
- (b) A fine at the low end of the applicable guideline sentencing range.
- (c) \$1,100 in mandatory special assessments;
- (d) A two year term of supervised release.

The U.S. Attorney and Defendant agree that there is no basis for a departure from the sentencing range established by the United States Sentencing Guidelines, except as explicitly reserved in the next paragraph and in paragraph 7(b). Accordingly, neither the U.S. Attorney nor Defendant will seek a departure on any ground from the Sentencing Guidelines, except under the conditions explicitly set forth below.

The Defendant reserves the right to seek a downward departure pursuant to U.S.S.G. §5K2.20, Aberrant Behavior. The Defendant agrees to provide the United States with any such motion for such departure at least 21 days prior to sentencing, including any supporting memorandum of law or fact. The United States reserves the right to oppose a departure on this ground.

In the event of an appeal from, or collateral challenge to, Defendant's sentence, the U.S. Attorney reserves the right to argue the correctness of Defendant's sentence and the manner in which the District Court determined it.

5. Payment of Mandatory Special Assessment

Defendant agrees to pay the mandatory special assessment to the Clerk of the Court on or before the date of sentencing, unless Defendant establishes to the satisfaction of the Court that Defendant is financially unable to do so.

6. Protection of Assets for Payment of Restitution,
Forfeiture and Fine

Defendant agrees not to transfer, or authorize the transfer of, any asset in which she has an interest without prior express written consent of the U.S. Attorney, except for:

- (1) Assets subject to superior, secured interests of innocent third parties, in which Defendant has an equity interest of less than \$5,000;
- (2) Ordinary living expenses necessary to house, clothe, transport and feed Defendant and those to whom she owes a legal duty of support, so long as such assets do not exceed \$10,000 per month; and
- (3) Attorney's fees incurred in connection with this criminal case and a related civil action by Compaq Computer Co against the Defendant.

This prohibition shall be effective as of the date of Defendant's execution of this Agreement and continue until the fine ordered by the Court at sentencing is satisfied in full.

7. Cooperation

a. Terms of Cooperation

Defendant agrees to cooperate fully with law enforcement agents and government attorneys. She must provide complete and truthful information to all law enforcement personnel. If her testimony is requested, she must testify truthfully and completely before any grand jury, and at any hearing and trial. Defendant must answer all questions put to her by any law enforcement agents or government attorneys and must not withhold any information. She must not attempt to protect any person or entity through false information or omission, or to implicate falsely any person or entity. Upon request, she must furnish all documents, objects and other evidence in her possession, custody or control that are relevant to the government's inquiries.

Defendant understands that she has a right to have counsel present when communicating with representatives of the government concerning the criminal conduct with which she has been charged. To facilitate her cooperation, Defendant hereby knowingly and voluntarily waives this right with respect to all debriefings by law enforcement agents and government attorneys and all appearances to testify. This waiver may be revoked at any time

by a specific request by Defendant or her counsel without otherwise affecting the terms or enforceability of this Agreement.

To enable the Court to have the benefit of all relevant sentencing information, Defendant waives any rights she may have to prompt sentencing and will join in any requests by the U.S. Attorney that sentencing be postponed until Defendant's cooperation is complete. Defendant understands that the date of Defendant's sentencing is within the sole discretion of the Court and that this Agreement may require Defendant's cooperation to continue even after Defendant has been sentenced. Defendant's failure to continue to cooperate pursuant to the terms of this Agreement after sentence is imposed shall constitute a breach of this Agreement by Defendant.

b. Substantial Assistance Motion

In the event that Defendant provides substantial assistance in the investigation or prosecution of another person who has committed a criminal offense, the U.S. Attorney agrees that, at or before the time of sentencing, the U.S. Attorney will make a motion under U.S.S.G. § 5K1.1 so that the sentencing court may impose a sentence below that which otherwise would be required under the Sentencing Guidelines. The determination whether Defendant has provided substantial assistance rests solely in the discretion of the U.S. Attorney and is not subject to appeal or review. The U.S. Attorney expressly reserves the right to decline to file a motion pursuant to U.S.S.G. § 5K1.1 if Defendant violates any condition of her pretrial release, violates any of the requirements of honesty and candor detailed in paragraph 7(a) above, or engages in any criminal conduct after the date she signs this Agreement. Defendant may not withdraw her plea if the U.S. Attorney determines that Defendant has not rendered substantial assistance, or if the Court refuses to grant the U.S. Attorney's motion for a downward departure.

c. Sentence Recommendation with Substantial Assistance

If Defendant provides substantial assistance, subject to all the provisions of paragraphs 7(a) and (b) above, the U.S. Attorney will advise the sentencing judge of the full nature, extent and value of the assistance provided by Defendant.

The U.S. Attorney reserves the right to recommend a particular sentence or sentencing range, or to make no recommendation at Defendant's sentencing.

d. Letter Immunity

In return for Defendant's full and truthful cooperation, the U.S. Attorney agrees not to use any information provided by Defendant pursuant to this Agreement or pursuant to the proffer letter dated June 1, 2004 (or any information directly or indirectly derived therefrom) against Defendant in any criminal case except in a prosecution (1) for perjury or obstruction of justice, or for making a false statement after the date of this Agreement; or (2) for an act of physical violence against the person of another, or conspiracy to commit any such act of violence. The U.S. Attorney reserves the right to respond fully and completely to all requests for information by the District Court and U.S. Probation Office in this case. All such disclosures, however, shall be made subject to the provisions constraining the use of this information by the District Court and U.S. Probation Office contained in U.S.S.G. § 1B1.8(a) and the commentary thereto. Notwithstanding the provisions of U.S.S.G. § 1B1.8(b)(5) and the commentary thereto, the U.S. Attorney agrees to take the position that at the time of sentencing information provided by Defendant pursuant to this Agreement should not be used either in determining where within the applicable guideline range to sentence Defendant or in determining whether, or to what extent, a departure from the Sentencing Guidelines is warranted.

If the U.S. Attorney determines that Defendant has breached this Agreement by making any false, incomplete or misleading statement, or by providing any false, incomplete or misleading information to any law enforcement personnel, grand jury or court, the U.S. Attorney may terminate this Agreement as set forth below, and may also prosecute Defendant for any and all offenses that could be charged against her in the District of Massachusetts, including, but not limited to, false statements and perjury.

8. Court Not Bound By Agreement

The sentencing recommendations made by the parties and their respective calculations under the Sentencing Guidelines are not binding upon the U.S. Probation Office or the sentencing judge. Within the maximum sentence which Defendant faces under the applicable law, the sentence to be imposed is within the sole discretion of the sentencing judge. Defendant's plea will be tendered pursuant to Fed. R. Crim. P. 11(c)(1)(B). Defendant may not withdraw her plea of guilty regardless of what sentence is imposed. Nor may Defendant withdraw her plea because the U.S. Probation Office or the sentencing judge declines to follow the

Sentencing Guidelines calculations or recommendations of the parties. In the event that the sentencing judge declines to follow the Sentencing Guidelines calculations or recommendations of the U.S. Attorney, the U.S. Attorney reserves the right to defend the sentencing judge's calculations and sentence in any subsequent appeal or collateral challenge.

9. Information For Presentence Report

Defendant agrees to provide all information requested by the U.S. Probation Office concerning her assets.

10. Civil Liability

By entering into this Agreement, the U.S. Attorney does not compromise any civil liability, including but not limited to any tax liability, which Defendant may have incurred or may incur as a result of her conduct and her plea of guilty to the charges specified in paragraph one of this Agreement.

11. Rejection of Plea By Court

Should Defendant's guilty plea not be accepted by the Court for whatever reason, or later be withdrawn on motion of Defendant, this Agreement shall be null and void at the option of the U.S. Attorney.

12. Breach of Agreement

If the U.S. Attorney determines that Defendant has failed to comply with any provision of this Agreement, has violated any condition of her pretrial release, or has committed any crime following her execution of this Agreement, the U.S. Attorney may, at his sole option, be released from his commitments under this Agreement in their entirety by notifying Defendant, through counsel or otherwise, in writing. The U.S. Attorney may also pursue all remedies available to him under the law, irrespective of whether he elects to be released from his commitments under this Agreement. Further, the U.S. Attorney may pursue any and all charges which have been, or are to be, dismissed pursuant to this Agreement. Defendant recognizes that no such breach by her of an obligation under this Agreement shall give rise to grounds for withdrawal of her guilty plea. Defendant understands that, should she breach any provision of this agreement, the U.S. Attorney will have the right to use against Defendant before any grand jury, at any trial or hearing, or for sentencing purposes, any statements which may be made by her, and any information, materials, documents or objects which may be provided by her to

the government subsequent to this Agreement, or pursuant to the proffer agreement dated June 1, 2004 without any limitation. In this regard, Defendant hereby waives any defense to any charges which she might otherwise have under any statute of limitations or the Speedy Trial Act.

13. Who Is Bound By Agreement

This Agreement is limited to the U.S. Attorney for the District of Massachusetts, and cannot and does not bind the Attorney General of the United States or any other federal, state or local prosecutive authorities.

14. Complete Agreement

This letter contains the complete agreement between the parties relating to the disposition of this case. No promises, representations or agreements have been made other than those set forth in this letter and in the proffer letter dated June 1, 2004. This Agreement supersedes prior understandings, if any, of the parties, whether written or oral, with the sole exception of those contained in the proffer letter dated June 1, 2004. This Agreement can be modified or supplemented only in a written memorandum signed by the parties or on the record in court.

If this letter accurately reflects the Agreement between the U.S. Attorney and Defendant, please have Defendant sign the Acknowledgment of Agreement below. Please also sign below as

Witness. Return the original of this letter to Assistant U.S. Attorney Peter A. Mullin.

Very truly yours,

MICHAEL J. SULLIVAN
United States Attorney

By: James B. Farmer
JAMES B. FARMER
Assistant U.S. Attorney
Chief,
Criminal Division

STEPHEN P. HEYMANN
Assistant U.S. Attorney
Deputy Chief,
Criminal Division

PETER A. MULLIN
Assistant U.S. Attorney

ACKNOWLEDGMENT OF PLEA AGREEMENT

I have read this letter in its entirety and discussed it with my attorney. I hereby acknowledge that it fully sets forth my agreement with the United States Attorney's Office for the District of Massachusetts. I further state that no additional promises or representations have been made to me by any official of the United States in connection with this matter. I understand the crimes to which I have agreed to plead guilty, the maximum penalties for those offenses and Sentencing Guideline penalties potentially applicable to them. I am satisfied with the legal representation provided to me by my attorney. We have had sufficient time to meet and discuss my case. We have discussed the charges against me, possible defenses I might have, the terms of this Plea Agreement and whether I should go to trial. I am entering into this Agreement freely, voluntarily, and knowingly because I am guilty of the offenses to which I am pleading guilty and I believe this Agreement is in my best interest.


JANICE G. DOUGLAS
Defendant

Date: 8/12/04

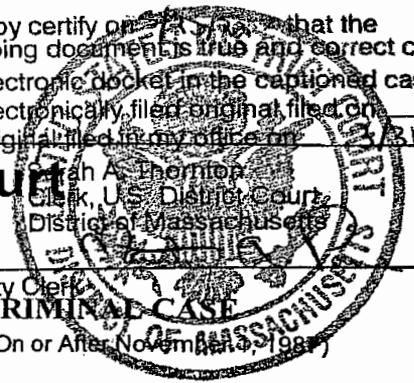
I certify that Janice G. Douglas has read this Agreement and that we have discussed its meaning. I believe she understands the Agreement and is entering into the Agreement freely, voluntarily and knowingly.


A. JOHN PAPPALARDO, Esq.
Attorney for Janice G. Douglas

Date: 8/16/04

I hereby certify on 3/31/05 that the foregoing document is true and correct copy of
 electronic docket in the captioned case
 electronically filed original filed on
 original filed in my office on 3/31/05

United States District Court
District of Massachusetts



UNITED STATES OF AMERICA
 v.
 JANICE DOUGLAS

By: _____
 Deputy Clerk
JUDGMENT IN A CRIMINAL CASE
 (For Offenses Committed On or After November 1, 1987)

Case Number: 1: 02 CR 10241 - 002 - PBS

A. John Pappalardo, Esq.
 Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s): 2,3,5,6,7,8,10,12 and 13 of a Superseding Indictment
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 USC § 1341	Mail Fraud	02/13/02	2s
18 USC § 1341	Mail Fraud	02/18/02	3s
18 USC § 1343	Wire Fraud	01/31/02	5s
18 USC § 1343	Wire Fraud	02/18/02	6s,7s
18 USC § 1343	Wire Fraud	02/21/02	8s
18 USC § 1343	Wire Fraud	02/25/02	10s

See continuation page

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).

Count(s) 1s,4s,9s,11s and 14s are dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.:
 Defendant's Date of Birth: 00/00/43
 Defendant's USM No.: 24528-038
 Defendant's Residence Address:
 Bratenahl, OH 44108
 Defendant's Mailing Address:
 same

03/30/05
 Date of Imposition of Judgment
 /s/ Patti B. Saris
 Signature of Judicial Officer
The Honorable Patti B. Saris
 Name and Title of Judicial Officer
 Judge, U.S. District Court
 Date 3/31/05

DEFENDANT:

JANICE DOUGLAS

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 USC § 1343	Wire Fraud	03/15/02	12s,13s

DEFENDANT:

JANICE DOUGLAS

PROBATION

The defendant is hereby sentenced to probation for a term of 24 month(s)

Conditions: Alcohol treatment which is to include in-patient treatment for 90 days as directed by U.S. Probation.
Mental Health Counseling as directed by U.S. Probation.
400 Hours of Community Service.

See continuation page

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated above).

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

CASE NUMBER: 1: 02 CR 10241 - 002 - PBS
DEFENDANT: JANICE DOUGLAS

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$900.00	\$7,500.00	

The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
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TOTALS	_____ \$0.00	_____ \$0.00	
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See Continuation Page

If applicable, restitution amount ordered pursuant to plea agreement _____

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

the interest requirement is waived for the fine and/or restitution.

the interest requirement for the fine and/or restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

CASE NUMBER: **1: 02 CR 10241 - 002 - PBS**
DEFENDANT: **JANICE DOUGLAS**

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, or E below; or
- B Payment to begin immediately (may be combined with C, D, or E below); or
- C Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Special instructions regarding the payment of criminal monetary penalties:

The \$900.00 Special Assessment is due immediately.

The \$7,500.00 Fine is without interest and is to be paid within one month.

Unless the court has expressly ordered otherwise in the special instruction above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number, Defendant Name, and Joint and Several Amount:

The defendant shall pay the cost of prosecution.

See Continuation Page

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.