

# State Medical Board of Ohio

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Executive Director

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September 12, 2007

Stephen Henry Humphrey, D.P.M.  
1104 Harrison Avenue  
Defiance, OH 43512-2031

Dear Doctor Humphrey:

Please find enclosed certified copies of the Entry of Order; the Report and Recommendation of R. Gregory Porter, Esq., Hearing Examiner, State Medical Board of Ohio; and an excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 12, 2007, including motions approving and confirming the Report and Recommendation as the Findings and Order of the State Medical Board of Ohio.

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

A handwritten signature in black ink, appearing to read "Lance A. Talmage M.D.", is written over the typed name.

Lance A. Talmage, M.D.  
Secretary

LAT:jam  
Enclosures

CERTIFIED MAIL NO. 91 7108 2133 3933 5241 3851  
RETURN RECEIPT REQUESTED

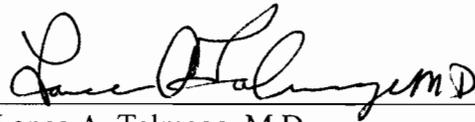
Cc: John R. Irwin, M.D., J.D.  
CERTIFIED MAIL NO. 91 7108 2133 3933 5241 3868  
RETURN RECEIPT REQUESTED

*Mailed 9-14-07*

CERTIFICATION

I hereby certify that the attached copy of the Entry of Order of the State Medical Board of Ohio; Report and Recommendation of R. Gregory Porter, State Medical Board Attorney Hearing Examiner; and excerpt of draft Minutes of the State Medical Board, meeting in regular session on September 12, 2007, including motions approving and confirming the Findings of Fact, Conclusions and Proposed Order of the Hearing Examiner as the Findings and Order of the State Medical Board of Ohio; constitute a true and complete copy of the Findings and Order of the State Medical Board in the matter of Stephen Henry Humphrey, D.P.M., 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)

September 12, 2007

Date

BEFORE THE STATE MEDICAL BOARD OF OHIO

IN THE MATTER OF

\*

STEPHEN HENRY  
HUMPHREY, D.P.M.

\*

\*

ENTRY OF ORDER

This matter came on for consideration before the State Medical Board of Ohio on September 12, 2007.

Upon the Report and Recommendation of R. Gregory Porter, 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 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:

The certificate of Stephen Henry Humphrey, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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

(SEAL)

  
\_\_\_\_\_  
Lance A. Talmage, M.D.  
Secretary

September 12, 2007  
\_\_\_\_\_  
Date

**REPORT AND RECOMMENDATION  
IN THE CONSOLIDATED MATTERS OF STEPHEN HENRY HUMPHREY, D.P.M.**

The Consolidated Matters of Stephen Henry Humphrey, D.P.M., were heard by R. Gregory Porter, Hearing Examiner for the State Medical Board of Ohio, on December 6 and 7, 2006.

**INTRODUCTION**

**I. Basis for Hearing**

- A. By letter dated August 11, 2004, the State Medical Board of Ohio [Board] notified Stephen Henry Humphrey, D.P.M., that it had proposed to determine whether to impose discipline upon his certificate to practice podiatric medicine and surgery in Ohio. The Board based its proposed action on allegations that, in 2004, in the Common Pleas Court of Williams County, Ohio, Dr. Humphrey had been found guilty of seven felony offenses. (State's Exhibit 1A)

The Board alleged that the judicial findings of guilt described above 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).” (State's Exhibit 1A)

Accordingly, the Board advised Dr. Humphrey of his right to request a hearing concerning the Board's allegations. (State's Exhibit 1A)

- B. By document received by the Board on September 9, 2004, Michael W. Spangler, Esq., requested a hearing on behalf of Dr. Humphrey. (State's Exhibit 1B)
- C. By letter dated February 8, 2006, the Board issued a second notice of opportunity for hearing, notifying Dr. Humphrey that it had proposed to determine whether to impose discipline upon his certificate. The Board based its proposed action on allegations that, following a Board-ordered psychiatric evaluation, the evaluating psychiatrist had notified the Board of his opinion that Dr. Humphrey is incapable of practicing podiatric medicine and surgery according to acceptable and prevailing standards of care due to mental disorder. (State's Exhibit 1Z)

The Board alleged that Dr. Humphrey's mental disorder constitutes “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.” (State's Exhibit 1Z)

Finally, the Board notified Dr. Humphrey of his right to request a hearing concerning the Board's allegations. (State's Exhibit 1Z)

- D. By document received by the Board on March 9, 2006, John R. Irwin, M.D., Esq., requested a hearing on behalf of Dr. Humphrey. (State's Exhibit 1Z[1])
- C. By Entry dated April 26, 2006, the matters addressed in the August 11, 2004, and February 8, 2006, notices of opportunity for hearing were consolidated. (State's Exhibit 1DD)

## II. Appearances

- A. On behalf of the State of Ohio: Jim Petro, Attorney General, by Kyle C. Wilcox, Assistant Attorney General.
- B. On behalf of the Respondent: John R. Irwin, M.D., Esq.

## **EVIDENCE EXAMINED**

### I. Testimony Heard

- A. Presented by the State
  - 1. Stephen G. Noffsinger, M.D.
  - 2. Stephen Henry Humphrey, D.P.M., as upon cross-examination
- B. Presented by the Respondent
  - 1. Jane Broering-Ammons, M.D.
  - 2. Stephen Henry Humphrey, D.P.M.
  - 3. Lames Michael Staneluis, Ph.D.
  - 4. Peter Roger Breggin, M.D.
  - 5. Susan K. Polasek
  - 6. Gregory B. Collins, M.D.

### II. Exhibits Examined

- A. Presented by the State

State's Exhibits 1A through 1KK: Procedural exhibits.

State's Exhibit 2: Certified copy of Indictment filed on January 21, 2004, in the Common Pleas Court of Williams County, Ohio, in *State v. Stephen H. Humphrey*, Case Number 04 CR 001 [*State v. Humphrey*].

State's Exhibits 3 and 4: Certified copies of documents filed in *State v. Humphrey*: Journal Entry Accepting Guilty Plea, filed on May 3, 2004, and Sentencing Journal Entry, filed on June 2, 2004.

State's Exhibit 5: Transcript of April 26 and June 2, 2004, proceedings in *State v. Humphrey*.

State's Exhibit 6: January 18, 2006, report of Board-ordered psychiatric evaluation of Dr. Humphrey by Stephen G. Noffsinger, M.D.

State's Exhibit 7: Dr. Noffsinger's curriculum vitae.

State's Exhibit 8: Collection of reports from the William's County Sheriff's Department concerning its investigation of Dr. Humphrey.

State's Exhibit 9: February 25, 2004, report of psychiatric evaluation of Dr. Humphrey by Gregory B. Collins, M.D.

State's Exhibit 10: See Proffered Material, below.

State's Exhibits 11 and 12: State's Closing Argument and State's Rebuttal Closing Argument, respectively. [Note: These exhibits were marked and admitted post-hearing. See Procedural Matters, below.]

B. Presented by the Respondent

Respondent's Exhibit 1: Collection of documents consisting of the following:

- 1.1 Copies of photographs of Dr. Humphrey's SUV and a Case 580 Backhoe and trailer.
- 1.2 Copies of medical records maintained by Jane Broering-Ammons, M.D., concerning her treatment of Dr. Humphrey. [Note: This exhibit has been sealed to protect patient confidentiality.]
- 1.3 Copy of May 13, 2004, letter addressed to "To Whom It May Concern" from T.L. Ittiara, M.D.
- 1.4 Copy of medical records concerning Dr. Humphrey maintained by The Cleveland Clinic Foundation. [Note: This exhibit has been sealed to protect patient confidentiality.]

Respondent's Exhibit 2: Collection of documents consisting of the following:

- 2.5 Copy of April 27, 2005, Report of psychiatric evaluation of Dr. Humphrey by Peter R. Breggin, M.D., with attachments.
- 2.6 January 18, 2006, report of Board-ordered psychiatric evaluation of Dr. Humphrey by Stephen G. Noffsinger, M.D. (duplicate of State's Exhibit 6).
- 2.7 Copy of a document authored by Dr. Humphrey entitled "Critical Analysis of Dr. Noffsinger's Report," dated July 20, 2006, with attachments.
- 2.8 Copy of December 4, 2006, Affidavit of Gregory Collins, M.D., with attachments.
- 2.9 Collection of line charts relating the timeline of Dr. Humphrey's medication use and his criminal offenses.

Respondent's Exhibits 3 and 3A: Copy of July 1, 2005, letter to Dr. Noffsinger from John R. Irwin, M.D., Esq., and attached copy of cashier's check in the amount of \$2,000 payable to Dr. Noffsinger.

Respondent's Exhibits 4 and 4A: Copy of a July 14, 2005, letter to Dr. Noffsinger from Dr. Irwin, and copy of a cashier's check in the amount of \$2,000 payable to Dr. Noffsinger.

Respondent's Exhibit 5: Copy of transcript of September 15, 2004, proceedings in *State v. Humphrey*.

Respondent's Exhibits 6 and 7: Copies of photographs of Dr. Humphrey's residence.

Respondent's Exhibit 8: Respondent's Closing Memorandum. [Note: This exhibit was marked and admitted post-hearing. See Procedural Matters, below.]

### **PROFFERED MATERIAL**

The following document was neither admitted to the record nor considered as evidence. However, it has been sealed and will be held as proffered material for the State:

State's Exhibit 10: Collection of medical journal articles.

### **PROCEDURAL MATTERS**

At the close of the hearing, the record in this matter was held open at the request of the parties in order to afford the parties an opportunity to submit written closing arguments. (See Hearing Transcript at pages 700-703) The final written argument was received on January 26, 2007, and

the hearing record closed on that date. The Hearing Examiner marked the parties' closing arguments and admitted them to the hearing record post-hearing.

## 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 Information

1. Stephen Henry Humphrey, D.P.M., testified that he obtained a Bachelor of Arts degree in chemistry from East Carolina University in North Carolina in 1984. Following graduation he attended podiatry school in Des Moines, Iowa, and obtained his podiatric medical degree in 1988. (Hearing Transcript [Tr.] at 280-281, 346)

Dr. Humphrey testified that, after having graduated from podiatric medical school in 1988, he opted not to practice but instead moved to Florida to try to get over anxiety that he had experienced during podiatric school. Dr. Humphrey further testified that, during podiatric medical school, he had been employed as an associate for a company that rented party supplies and small equipment such as chainsaws and air compressors. Dr. Humphrey testified that he had worked there for about one and one-half years. (Tr. at 281-283, 347)

In 1990 or 1991, Dr. Humphrey moved to Toledo to work in the practice of an older podiatrist. He entered that office as part of a preceptorship but later joined the practice as an associate. In 1993, Dr. Humphrey became board-certified in surgery, and in 1995 he entered a one-year surgical lower foot residency in Indianapolis, Indiana. After completing the residency in 1996, Dr. Humphrey started his own practice in Bryan, Ohio. Dr. Humphrey testified that he had maintained that practice until he began having legal difficulties. Dr. Humphrey's legal difficulties are described in greater detail below. (State's Exhibit [St. Ex.] 6 at 4; Tr. at 278-280, 346-350)

2. Dr. Humphrey testified that he had held privileges at Williams County Community Hospital in Bryan, Ohio, Hicksville Hospital, and St. Vincent's Hospital in Toledo. Dr. Humphrey further testified that he did about 90 percent of his work at Williams County Community Hospital. (Tr. at 357)
3. Dr. Humphrey testified that he was licensed to practice podiatric medicine and surgery in Ohio in 1991. However, Dr. Humphrey further testified that he has agreed not to practice during the pendency of this matter. (Tr. at 277-278, 349)

Dr. Humphrey further testified that he is also licensed to practice podiatric medicine in Indiana, although he has never used that license. (Tr. at 278)

4. Dr. Humphrey testified that he is currently employed in a non-medical position. Dr. Humphrey testified that he currently works for Urban Knights a nonprofit organization in Toledo that “helps ex offenders get jobs and reconnect with the community after having been in jail for a long period of time.” (Tr. at 276-278)

### **Expert Witnesses**

*Stephen G. Noffsinger, M.D.*

5. Stephen G. Noffsinger, M.D., testified as an expert witness on behalf of the State. Dr. Noffsinger obtained his medical degree in 1987 from the Northeastern Ohio Universities College of Medicine. In 1991, Dr. Noffsinger completed a four-year residency in psychiatry at Metro Health Medical Center in Cleveland, Ohio. Dr. Noffsinger testified that he had practiced psychiatry for four years and then entered a one-year fellowship in forensic psychiatry at University Hospitals of Cleveland, which he completed in 1996. (St. Ex. 7; Tr. at 17-20)

Dr. Noffsinger was board certified in psychiatry in 1995 by the American Board of Psychiatry and Neurology [ABPN], and was recertified in 2004. In 1996 he obtained Added Qualifications in Forensic Psychiatry from ABPN, for which he was recertified in 2006. (St. Ex. 7; Tr. at 24-26)

Dr. Noffsinger’s curriculum vitae indicates that he belongs to a number of professional associations, including the American Psychiatric Association, the Ohio Psychiatric Association, and the American Academy of Psychiatry and the Law. Additionally, Dr. Noffsinger has authored or co-authored a number of articles and two book chapters. (St. Ex. 7)

6. Dr. Noffsinger testified that forensic psychiatry is a subspecialty of psychiatry that involves performing psychiatric evaluations for purposes of a legal issue, either civil or criminal. (Tr. at 19-20)
7. Dr. Noffsinger testified that he has been licensed to practice medicine in Ohio since 1988.
8. Since completing his fellowship in forensic psychiatry, Dr. Noffsinger’s main position has been Chief of Forensic Psychiatry at Northcoast Behavioral Healthcare [Northcoast] in Northfield, Ohio. Northcoast is a regional state hospital with three locations that serve 37 counties in northern Ohio. As Chief of Forensic Psychiatry, Dr. Noffsinger evaluates, treats, and supervises the treatment of patients at the Northfield hospital, and consults on forensic and clinical issues at the Toledo and Cleveland hospitals. Dr. Noffsinger supervises a staff that includes six psychiatrists and two psychologists. Dr. Noffsinger’s position at Northcoast also involves teaching. (St. Ex. 7; Tr. at 21-22)

In addition to his position at Northcoast, Dr. Noffsinger is an Associate Professor of Psychiatry at the Case Western Reserve University School of Medicine, and is Associate

Director of the Forensic Psychiatry Fellowship at University Hospitals of Cleveland. Moreover, Dr. Noffsinger works one half-day per week for the Cuyahoga County Court of Common Pleas performing court-ordered evaluations of criminal defendants. Dr. Noffsinger also teaches a course on law and psychiatry at the University of Akron Law School. Finally, Dr. Noffsinger testified that he has a private practice of forensic psychiatry through University Hospitals of Cleveland “doing evaluations for various sources of referrals: [a]ttorneys, courts, prosecutors, insurance companies, the medical board,” and evaluations for pension funds. (St. Ex. 7; Tr. at 22-23)

9. Dr. Noffsinger testified that, on behalf of the Board, he has performed between forty and fifty evaluations of physicians in order to determine their ability to practice according to acceptable standards of care. Dr. Noffsinger further testified that in about forty of those evaluations his opinions supported the side of the physician. Dr. Noffsinger stated that he has testified about four times previously in Board proceedings. (Tr. at 29-30, 203)

*Gregory B. Collins, M.D.*

10. Gregory B. Collins, M.D., testified as an expert witness on behalf of Dr. Humphrey. Dr. Collins obtained his medical degree in 1970 from the Ohio State University College of Medicine. In 1973, Dr. Collins completed a residency in psychiatry at the Ohio State University Hospitals. In 1975, after spending two years in the United States Navy as a psychiatrist, Dr. Collins took a job at Cleveland Metropolitan General Hospital running its alcohol and drug recovery program. In 1980, Dr. Collins was recruited to work for the Cleveland Clinic Foundation [Cleveland Clinic] where he founded and continues to serve as the Section Head of the Alcohol and Drug Recovery Center, a section of the Department of Psychiatry. (Tr. at 629-631)

Dr. Collins testified that he was board-certified in general psychiatry in 1976, and passed the addiction psychiatry boards in 1993. (Tr. at 631)

11. Dr. Collins testified that he is a Board-approved treatment provider. (Tr. at 631-632)
12. Dr. Collins testified that he has experience in forensic psychiatry and is “frequently sought after as a reviewer of cases\* \* \*.” Moreover, Dr. Collins testified that, although he has special expertise in addiction medicine, he is nevertheless qualified as a general psychiatrist to deal with patients who do not have substance-abuse disorders. (Tr. at 631-632)

*Peter R. Breggin, M.D.*

13. Peter R. Breggin, M.D., testified that he is a psychiatrist with a subspecialty in clinical psychopharmacology. In 1962, Dr. Breggin obtained his medical degree from the Case Western Reserve University School of Medicine. In 1963, Dr. Breggin completed an internship in mixed medicine and psychiatry at the State University of New York Upstate Medical Center in Syracuse, New York [SUNY Syracuse]. In 1964 he completed the first year of a psychiatry residency at Massachusetts Mental Health Center in Boston, after

which he returned to SUNY Syracuse and completed a psychiatry residency in 1966. (Respondent's Exhibit [Resp. Ex.] 1.5 at 26-27; Tr. at 488-489)

Dr. Breggin's résumé summary indicates that, among other things, from 1968 through 2002, in addition to several academic appointments, Dr. Breggin was engaged in the private practice of psychiatry in Washington, DC, and Bethesda, Maryland. From 2003 through the present, Dr. Breggin has been engaged in the private practice of psychiatry in Ithaca, New York. (Resp. Ex. 1.5 at 27)

Dr. Breggin's résumé and testimony indicate that he has been extensively published and has given many presentations and seminars. Dr. Breggin testified that he has served as an editorial consultant on journals. Moreover, Dr. Breggin testified that he founded "an international organization of concern with reform issues in psychiatry, the International Center for Psychiatry," as well as a journal. (Resp. Ex. 1.5 at 32-36; Tr. at 490-493)

14. Dr. Breggin testified that he is not board certified. He stated, "I never took the boards. I have all the qualifications to take the boards, but when I was young man, they were not of any great significance." (Tr. at 494-495)
15. Dr. Breggin is licensed to practice medicine in New York, Washington, D.C., Maryland, and Virginia. (Resp. Ex. 1.5 at 32)
16. Dr. Breggin testified that he currently sees patients clinically at least two full days per week. (Tr. at 496)
17. When asked if he is familiar with an Internet web site called "quackwatch.org," Dr. Breggin testified:

I'm vaguely familiar with it. It has a huge number of attorneys on the board who I think represent drug companies, and there's, as I recall, a nasty article in there by a doctor who I have been very critical of, but not in a nasty way, for not representing the hazards of stimulants to children, and he wrote some angry things on that. But I don't know much about the quackwatch itself. I think it's run by a doctor. He doesn't practice, but it's run by a physician.

(Tr. at 493-494)

### **Dr. Humphrey's Treatment for Anxiety From 1993 through 2001**

#### Dr. Spahbodi

18. Dr. Humphrey testified that, in 1993, he had begun seeing a psychiatrist in Toledo named Bupinder Sphabodi, M.D., for problems with anxiety. (Tr. at 358) Dr. Noffsinger reported that Dr. Spahbodi had first treated Dr. Humphrey with BuSpar and later with Klonopin. (St. Ex. 6 at 6-7)

Dr. Chahal

19. In 1996, Dr. Humphrey moved to Bryan to start his own practice, and, on December 5, 1996, began seeing another psychiatrist, Dr. Chahal. Dr. Chahal's notes from that visit indicate that Dr. Humphrey was 36 years old and had been treated for panic disorder since 1993 with Klonopin 1 mg, with instructions to take one tablet three times per day. Dr. Humphrey reported experiencing anxiety and feelings of panic since 1989. Dr. Humphrey further reported, as noted by Dr. Chahal, "ringing in ears, afraid to go to the stores that 'he might see someone he knows.'" Dr. Chahal diagnosed Panic Disorder with Agoraphobia, rule out Bipolar Disorder, and rule out Major Depression. (Resp. Ex. 2.7 at 78)

At Dr. Humphrey's first visit, Dr. Chahal prescribed Klonopin 1 mg and instructed Dr. Humphrey to take one pill three times per day. Dr. Humphrey continued on this regimen through May 27, 1999, when Dr. Chahal reduced Dr. Humphrey's Klonopin dose to two pills per day. Dr. Humphrey continued on that dose through December 20, 2001, his last visit to Dr. Chahal's office. (Resp. Ex. 2.7 at 78-85)

20. In his progress note for Dr. Humphrey's first visit on December 5, 1996, Dr. Chahal described Dr. Humphrey's social history as follows: "[G]rowing up was 'fast,' did well in school on grades and graduated podiatry school in Indianapolis. Now practicing in Bryan, Ohio." (Resp. Ex. 2.7 at 78-79)
21. In his progress note for Dr. Humphrey's next-to-last visit on November 15, 2001, Dr. Chahal recorded, among other things, that Dr. Humphrey

reports one incident when he got into [Williams County Community ] Hospital maintenance area & put materials like compressors, etc. into bag and [put] in his truck[,] took to his office, then thought "what I have done" and took those back but was on their camera. The hospital administrator was supportive & no charges are filed & asked him to get help.<sup>1</sup>

(Resp. Ex. 2.7 at 84)

**Dr. Humphrey's Theft of an Air Compressor and Small Tools from Williams County Community Hospital**

22. According to various sources in the hearing record, on the morning of October 7, 2001, Dr. Humphrey went to Williams County Community Hospital. While there, Dr. Humphrey entered a maintenance area. He found an air compressor and some small tools that belonged to the hospital. Dr. Humphrey picked up the compressor and tools, carried them up some stairs, and exited the hospital. He placed the items in his vehicle, or in a trailer towed by his

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<sup>1</sup> Dr. Chahal's handwriting is difficult for the Hearing Examiner to read. The word "asked" might actually say "ordered." (St. Ex. 2.7 at 84)

vehicle, and drove away. Not long afterward, Dr. Humphrey had second thoughts, turned around, and went back to the hospital to return the items. When he got there, he was unable to return the items without being seen. He left without returning the items and instead drove to his office building and hid them outside behind a dumpster. Dr. Humphrey reported that he had intended to return the items later. He did not use the items. (St. Ex. 6 at 7; St. Ex. 9 at 4-5; Resp. Ex. 1.4 at 181; Resp. Ex. 2.7 at 70; Tr. at 286-289, 360-361)

According to a report authored by Dr. Collins dated February 24, 2005<sup>2</sup> [Dr. Collins' 2005 report], Dr. Humphrey returned to his office building at about 9:00 that evening to get the items and found that they were gone. He assumed that someone had stolen the items. However, unbeknownst to Dr. Humphrey, maintenance personnel at the hospital had noticed the items missing and checked the surveillance video that showed Dr. Humphrey's vehicle in the parking lot. Hospital staff went to Dr. Humphrey's office and found and retrieved the missing items. Three days later a policeman visited Dr. Humphrey's office and spoke to Dr. Humphrey. Dr. Humphrey denied involvement in the theft. A meeting with the hospital administrator was arranged for that evening. (St. Ex. 9 at 5)

Dr. Collins reported that, that evening, Dr. Humphrey met with Rusty Brunicardi, CEO of Williams County Community Hospital; a member of the hospital maintenance staff; and a police officer. During that meeting, Dr. Humphrey denied involvement in the theft, and continued to deny involvement even after being shown the surveillance video. However, following that meeting, Dr. Humphrey requested a second meeting that took place the following day. (St. Ex. 9 at 5)

According to Dr. Noffsinger's January 18, 2006, report,<sup>3</sup> at the second meeting, Dr. Humphrey admitted taking the items. Mr. Brunicardi agreed not to prosecute Dr. Humphrey on conditions that included Dr. Humphrey seeking mental health treatment and discontinuing working at Williams County Community Hospital. (St. Ex. 6 at 8)

23. Dr. Humphrey wrote a letter to Mr. Brunicardi dated November 9, 2001, in which he addressed the issue of why he committed the theft. Dr. Humphrey went into detail concerning stressors that he was experiencing, which included marital stress, purchasing a new home and carrying two mortgages while trying to sell the former residence, and purchasing and renovating an office building, which consumed a lot of his time and physical energy. (St. Ex. 2.7 at 75-76)

Dr. Humphrey further stated that he had entered the hospital the morning of the theft with the intention of obtaining information concerning signage for bathrooms required under the Americans with Disabilities Act, which he said he needed in order for his renovated building to pass an inspection. Dr. Humphrey claimed that, while in a maintenance area, he developed a "strange urge to take something." He said he had felt nervous and "a sense of anxiety overcame" him. He decided to leave without taking anything but remembered

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<sup>2</sup> Dr. Collins' February 24, 2005, report is discussed in detail later in the Summary of the Evidence.

<sup>3</sup> Dr. Noffsinger's January 18, 2006, report is discussed in detail later in the Summary of the Evidence.

“feeling a sense of impending doom while leaving.” He left the building and returned to his vehicle. However, he did not leave the hospital premises. (St. Ex. 2.7 at 76)

In his letter to Mr. Brunicardi, Dr. Humphrey further stated that “[w]hat happened after this point on is without reason or much clarity even though [he has] tried to relive it over and over.” Dr. Humphrey stated that he believes that he moved his vehicle to another side of the hospital and, “with an unexplainable sense of urgency,” re-entered the hospital. His letter implies that he was so hazy on the details of the actual theft that he had had to rely on photographs provided by Mr. Brunicardi to describe what happened, although Dr. Humphrey did say he felt “numb and disconnected” while taking the items. Dr. Humphrey stated that, after loading the items in his trailer, he had driven away from the hospital “most likely from the West parking lot.” Dr. Humphrey stated that he had been aware of the presence of surveillance cameras; however: “this did not seem to matter at the time. The compulsion was overwhelming. Getting caught, violating the law and peoples [sic] trust for some unexplainable reason did not even enter [his] mind at this time.” (Resp. Ex. 2.7 at 76)

24. During a December 2, 2004, telephone call between Mr. Brunicardi and a Cleveland Clinic counselor, Mr. Brunicardi stated, among other things, that Dr. Humphrey had been unable to explain why he had taken the items. The Cleveland Clinic counselor further noted that Mr. Brunicardi reported Dr. Humphrey having “said he takes things he doesn’t need; i.e., took measuring [tape] on belt from Lowe’s—has 6 or 7 at home.” (Resp. Ex. 1.4 at 164; also see St. Ex. 9 at 6)
25. Dr. Humphrey testified that, when he took the compressor from Williams County Hospital, it had been between 8:00 a.m. and noon. Dr. Humphrey further testified that the device had probably weighed between 200 and 300 pounds. Moreover, Dr. Humphrey testified that, when he took it, he had picked it up in his arms and carried it up a flight of stairs. When asked how he could have picked up 200 or 300 pounds, Dr. Humphrey testified, “It’s not something I would ordinarily do.” (Tr. at 360-361)

**Dr. Humphrey’s Treatment by Jane Broering-Ammons, M.D., from February 7, 2002, through June 30, 2003**

26. On February 7, 2002, Dr. Humphrey began seeing Jane Broering-Ammons, M.D., a psychiatrist in Holland, Ohio. On her assessment form for Dr. Humphrey’s first visit, Dr. Ammons indicated that Dr. Humphrey had been referred to her by Mr. Brunicardi. (Resp. Ex. 1.2 at 38)

At Dr. Humphrey’s first visit, Dr. Ammons give her diagnostic impressions as

Axis I: Panic Disorder with Agoraphobia  
Axis II: Deferred  
Axis III: No acute or chronic medical problems  
Axis IV: “financial; career; marital”  
Axis V: GAF score of 60

(Resp. Ex. 1.2 at 41) Moreover, Dr. Ammons' initial treatment plan included continuing Dr. Humphrey on Klonopin 1 mg twice per day, following up with her, and following up with a clinical therapist in her practice, Dr. Staneluis, for psychotherapy.<sup>4</sup> (Resp. Ex. 1.2 at 41)

27. At his first visit to Dr. Ammons on February 7, 2002, Dr. Humphrey filled out a patient history questionnaire. When asked to describe any significant problems he had had growing up, Dr. Humphrey wrote, "anxiety/panic attacks/understanding self." When asked to describe his childhood personality, Dr. Humphrey wrote, "anxious, unhappy w/ self, confusion." (Resp. Ex. 1.2 at 18)

With regard to his education history, Dr. Humphrey wrote, among other things, that he had obtained "Excellent" grades in college and "Average" grades in high school. When asked to explain any failure he had had, Dr. Humphrey wrote "communicating w/ other peers or adults."<sup>5</sup> Finally, when asked to describe any school disciplinary problems he had had, Dr. Humphrey wrote, "Ø." (Resp. Ex. 1.2 at 18)

28. Dr. Humphrey first saw Dr. Staneluis on February 21, 2002. In his note for that visit, Dr. Staneluis wrote:

Referred by Dr. Ammons for psychotherapy and the further consideration of ADHD symptoms. Steve reported that in his opinion he [has been] plagued by ADHD type symptoms all of his life. I discussed the possibility the symptoms might [be] resulting from various types of ego constructs rather than ADHD.

(Resp. Ex. 1.2 at 45)

29. Dr. Humphrey next saw Dr. Ammons on March 7, 2002. Dr. Ammons noted that Dr. Humphrey was fifteen minutes late for the appointment. She further noted that she had discussed with him the possible diagnosis of ADHD, would consider it to be a working diagnosis, and that she would obtain "baseline labs & EKG." Dr. Ammons continued Dr. Humphrey on Klonopin 1 mg twice daily and noted that if the baseline labs are within normal limits she would start Dr. Humphrey on Adderall XR 10 mg once daily in the morning and slowly taper the Klonopin. (Resp. Ex. 1.2 at 37)

30. Dr. Ammons' and Dr. Staneluis' records indicate that Dr. Humphrey was tested for ADHD using the AMEN questionnaire and the Brown-ADD scales, and was diagnosed with ADHD. With regard to Dr. Humphrey's medication regimen:

- Dr. Ammons maintained Dr. Humphrey's Klonopin dosage at 1 mg twice daily throughout his course of treatment with her.

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<sup>4</sup> In 2005, subsequent to his treatment of Dr. Humphrey, Dr. Staneluis obtained a Ph.D. in psychology. (Tr. at 412)

<sup>5</sup> This word "other" could possibly be "older." (Resp. Ex. 1.2 at 18)

- On March 29, 2002, Dr. Ammons prescribed to Dr. Humphrey Adderall XR 10 mg and instructed him to take one pill each morning the first week, and two pills each morning thereafter.
- On May 16, 2002, Dr. Ammons increased Dr. Humphrey's Adderall XR dosage to 20 mg and instructed him to take two pills each morning.
- On July 8, 2002, Dr. Ammons increased Dr. Humphrey's Adderall XR dosage to 30 mg and instructed him to take two pills each morning. Dr. Ammons maintained Dr. Humphrey at this dose through May 12, 2003.

(Resp. Ex. 1.2 at 27-28)

31. Dr. Staneluis' notes from his psychotherapy sessions with Dr. Humphrey document discussions that he had had with Dr. Humphrey concerning Dr. Humphrey's theft of the compressor from Williams County Community Hospital:

- In his July 11, 2002, note, Dr. Staneluis recorded:

Review the incident of the missing compressor with him. Discussed the possibility of the need for excitement as a typical need for individuals with ADHD. He agreed that the excitement was interesting but reported that he took the compressor more as revenge. He stated [that] he overcame normal types of inhibition with the idea that the hospital "They owed me."

(Resp. Ex. 1.2 at 47)

- In his August 8, 2002, note, Dr. Staneluis recorded:

Noted that he is mission oriented. So when he locked into the idea of the compressors, he had trouble resisting the impulse to obtaining them. [sic] "Saw them and felt he needed them." "They owed me something" because he felt let down by the hospital Big Time. Was this Acting Out (?), premeditated (?), Hostility (?), Reacting to hostility from childhood? Was this revenge?

(Resp. Ex. 1.2 at 47) (Emphases and punctuation sic)

- In his note dated September 5, 2002, Dr. Staneluis noted: "No call and no show

today.” (Resp. Ex. 1.2 at 48) Dr. Staneluis’ next note, dated September 19, 2002, states:

Explained the need for continuity in therapy and the need to call. His disregard for last week’s appointment brought up his sense of entitlement. He agreed that he felt entitled to enter the hospital in off hours but he had trouble understanding why he walked off with the compressors. We explored possible motivations resulting from revenge, childhood issues, and the desire to get his fair share after he has brought the hospital so much business.

(Resp. Ex. 1.2 at 48)

- Dr. Staneluis’ note dated October 13, 2002, stated:

He had time to think about his last visit and decided to dispute the idea of entitlement. If he did not take the compressor out of sense that he was entitled to it, [then] what was his motivation? We again revisited all of the possible justifications and rationalizations for walking off with the compressors. We explored ADHD again as possible explanation for the impulse to take the items [since] he passed by the gates where they were stored. He noted that he had noticed that the gates were unlocked and visualized how easy it would be for them to walk off but we could not establish a solid motivation for his actions. He said that he readily admits to taking the compressors but is unable to understand what motivated him to actually take them. He did not think that entitlement fit but could not assign any of the other possibilities that we had discussed except the concept of obsessiveness and poor impulse control.

(Resp. Ex. 1.2 at 48)

The remainder of Dr. Staneluis’ psychotherapy notes does not specifically address Dr. Humphrey’s theft of the compressor. (Resp. Ex. 1.2 at 49-50)

32. In a December 9, 2004, letter to Dr. Collins, Dr. Ammons and Dr. Staneluis addressed their treatment of Dr. Humphrey. Among other things, they stated that they were providing the letter in response to a request from Dr. Collins. They further stated that Dr. Humphrey had been discharged from their practice at his request on June 30, 2003. Moreover, after providing information concerning Dr. Humphrey’s diagnosis and treatment for ADHD, they stated:

The Personality Assessment Screener (PAS), demonstrated moderate anxiety, moderate tendency to set his own standards irrespective of reality, marked tendency to socially withdraw, moderate level of hostility and a questionable substance use Disorder.

During his treatment, he identified a sense [of] entitlement and a need for excitement. On 7/11/02, he stated that the presence of the Compressor in an unlocked fenced area, provided the excitement and his own internal justification, "They owe me" as the motivation to steal the compressor.

He reported problems with his relationship with his wife, that somewhat revolved around her not doing what he wanted when he wanted. He also noted that his relationship with his children and his clients had shown improvement since starting treatment with Adderall XR.

He stated that before the treatment, his relationship with his staff was distant and with his patients was superfluous. He found that he could better engage both in conversations and appear to be interested in others.

He denied use or abuse of drugs and/or alcohol. He had trouble taking responsibility for his actions. He denied any pre-meditation to his theft which we primarily interpreted as an impulse control problem mainly associated with ADHD. We also concluded that his thievery was potentially a characterological [sic] Disorder.

(Resp. Ex. 1.2 at 67-68)

33. According to multiple sources in the hearing record, Dr. Humphrey ran out of Klonopin in June 2003. In his report, Dr. Noffsinger stated that Dr. Humphrey had been unable to get a refill because Dr. Ammons was out of the office for a few days when Dr. Humphrey's prescription ran out. Dr. Humphrey experienced a return of his anxiety, and wondered whether he was going through withdrawal. Dr. Noffsinger wrote, "Although Dr. Ammons returned to the office after only a few days, Dr. Humphrey was off the Klonopin for two or three weeks because when Dr. Ammons returned to the office Dr. Humphrey was told that he would need to personally see Dr. Ammons for a Klonopin refill, which Dr. Humphrey did not do." (St. Ex. 6 at 8; See also St. Ex. 9 at 6; Resp. Ex. 1.4 at 140)

According to Dr. Collins' 2005 report, Dr. Humphrey lost trust in Dr. Ammons, left her practice, and began seeing his primary care physician, Daniel Underwood, M.D., for his psychiatric medications. (St. Ex. 9 at 6)

### **Dr. Underwood's Treatment of Dr. Humphrey from June 25, 2003, through September 2003**

34. In his 2005 report, Dr. Collins stated that Dr. Humphrey began seeing Dr. Underwood for psychiatric mediation on June 25, 2003. In addition, Dr. Collins reported that Dr. Underwood's medical records indicated that Dr. Humphrey had had a history of childhood ADHD with difficulty focusing. (St. Ex. 9 at 6)

Dr. Humphrey told both Dr. Collins and Dr. Noffsinger that Dr. Humphrey had wanted Dr. Underwood to wean him from the Adderall XR. Records from that Cleveland Clinic and Dr. Collins' 2005 report state that, when Dr. Humphrey began seeing Dr. Underwood, Dr. Underwood reduced Dr. Humphrey's dose of Klonopin from 1 mg twice per day to 0.5 mg twice per day, and also reduced his dose of Adderall XR from 30 mg twice per day to 30 mg once per day. However, on July 16, 2003, when Dr. Humphrey next saw Dr. Underwood, Dr. Underwood learned that Dr. Humphrey had continued taking Adderall XR 30 mg twice per day, more than the reduced dose that Dr. Underwood had prescribed. (St. Ex. 6 at 8; St. Ex. 9 at 6; Resp. Ex. 1.4 at 140)

In addition, on July 16, 2003, upon Dr. Humphrey's suggestion, Dr. Underwood prescribed Strattera 40 mg daily. He also recommended that Dr. Humphrey return to psychiatric care. Dr. Underwood later increased Dr. Humphrey's dose of Strattera to 80 mg daily. In addition to Strattera, Dr. Underwood also maintained Dr. Humphrey on Adderall XR 30 mg once per day and Klonopin 0.5 mg twice per day. According to Cleveland Clinic records, Dr. Underwood issued his last prescription for Strattera 40 mg to be taken twice daily to Dr. Humphrey on September 20, 2003, and also gave him "a few Adderalls." (St. Ex. 9 at 6-7; Resp. Ex. 1.4 at 140, 173-174)

35. Dr. Humphrey told both Dr. Collins and Dr. Noffsinger that, some time around Labor Day 2003, Dr. Underwood had been away from his office on vacation. Dr. Humphrey ran out of Klonopin and was without Klonopin for one week. (St. Ex. 6 at 9; St. Ex. 9 at 7)

#### **September 27, 2003: Dr. Humphrey's First Felony Theft Offense**

36. Dr. Humphrey told both Dr. Collins and Dr. Noffsinger that, on September 27, 2003, he committed the first in a series of theft-related felony offenses. Dr. Noffsinger stated in his report that, on that date, Dr. Humphrey stole a trailer. Records from the Cleveland Clinic indicate that Dr. Humphrey had stolen the trailer from Williams County Community Hospital property. (St. Ex. 6 at 9; St. Ex. 9 at 7; Resp. Ex. 1.4 at 174)

#### **Treatment of Dr. Humphrey by T.L. Ittiara, M.D., from October 2, 2003, through about January 2004**

37. Multiple sources in the hearing record indicate that Dr. Humphrey first saw T.L. Ittiara, M.D., a psychiatrist in Adrian, Michigan, on October 2, 2003. (St. Ex. 6 at 9; St. Ex. 9 at 7; Resp. Ex. 1.3; Resp. Ex. 1.4 at 174) At that time, Dr. Ittiara maintained Dr. Humphrey on Adderall 30 mg daily and Strattera 80 mg daily, and resumed Klonopin 1 mg twice daily, thus increasing the dose that Dr. Humphrey had received from Dr. Underwood. (St. Ex. 6 at 9)

#### **The Remainder of Dr. Humphrey's Felony Offenses, and Related Issues**

38. On November 23, 2003, Dr. Humphrey was involved in an automobile accident and was arrested by the Ohio State Highway Patrol. When the accident occurred, Dr. Humphrey had been using his Lexus sport utility vehicle to tow a tandem-axle flatbed trailer carrying a Case

model 580 backhoe. Police records indicate that “Dr. Humphrey had fled the scene and was located a short time later not too far from the accident.” Dr. Humphrey was taken to the Bryan Police Department for questioning and requested an attorney. He was released from police custody pending further investigation. Dr. Humphrey’s SUV, along with the trailer and backhoe, were impounded. (St. Ex. 2; St. Ex. 8 at 2-3; Resp. Ex. 1.1)

Dr. Humphrey testified that the trailer and backhoe had weighed about 20 to 30 tons. (Tr. at 329)

39. In his report, Dr. Noffsinger stated that on November 23, 2003, “Dr. Humphrey stole a trailer holding a backhoe, and as he drove down the road the backhoe fell off and damaged Dr. Humphrey’s SUV.” (St. Ex. 6 at 9) Dr. Noffsinger further stated: “Dr. Humphrey told me he left the scene of the accident, but did not know why he left. He later said he was ‘frantic and panicked.’ He unhooked the trailer in a VFW parking lot\* \* \*. He had a flat tire.” (St. Ex. 6 at 11) Moreover, Dr. Noffsinger stated, “When the police were called, Dr. Humphrey denied that he had anything to do with the theft of the trailer and backhoe.” (St. Ex. 6 at 9)

40. Dr. Humphrey testified that, when he took the trailer and backhoe, it had been around 11:00 a.m. or noon. The backhoe had been about two blocks from the center of town in Bryan, Ohio, and about one block from the police station. When asked what he had been thinking at the time of the theft, Dr. Humphrey replied:

I don’t recall exactly what I was thinking, to be perfectly honest with you. I told people at the time that I didn’t do it. I know I lied, but I don’t really recall what I was thinking. I had no reason to take it. I had no reason to use it. I had no reason to sell it. I can’t tell you exactly what I was thinking.

(Tr. at 364-365)

41. Between September 27 and November 23, 2003, Dr. Humphrey had stolen other items. During this time, in addition to the trailer that he took on September 27, 2003, Dr. Humphrey took another flatbed trailer and a Bobcat T190 Track Loader. At some point he used one of the stolen trailers to “steal pole barn lumber.” He stored all of these items on his property in Pioneer, Ohio. (St. Ex. 2; St. Ex. 6 at 10-11; St. Ex. 8 at 13-16; St. Ex. 9 at 2)

Dr. Humphrey testified that the Bobcat loader and the trailers had been visible from the roads adjacent to his property, and that he had made no attempt to hide the stolen items. (Tr. at 378-379)

42. In his 2005 report, Dr. Collins stated that, on October 6, 2003, Dr. Humphrey had spent \$10,000 at an auction. Dr. Collins further stated that, during a collateral contact with Dr. Ittiara, Dr. Ittiara had reported that, at the auction, Dr. Humphrey had purchased a \$7,000 car and \$3000 worth of odds and ends that he had not needed. (St. Ex. 9 at 7, 8)

43. Police records indicate that on December 18, 2003, the Bryan Police Department and the Williams County Sheriff's Office executed a search warrant at Dr. Humphrey's residence and his office. The authorities found the stolen trailers, Bobcat, and lumber at Dr. Humphrey's residence. The following day, they obtained felony arrest warrants for Dr. Humphrey and attempted to serve them, but no one was home. (St. Ex. 8 at 4, 18)
44. Dr. Humphrey testified that, on or around December 20, 2003, he had arranged to meet with his attorney, the chief police detective, and the prosecutor, in order to give his confession. However, Dr. Humphrey testified that, that day, prior to his appointment for his confession, he had loaded up his truck "full of stuff that [he] was afraid might have been stolen, put the stuff all on the back of this truck, to a quarry, dumped it there." When asked what "stuff" he dumped, Dr. Humphrey replied, "As I recall, it was stuff that I had purchased at an auction after looking for the receipts of the stuff that I had purchased, [such as] stoplights." Dr. Humphrey further testified that the property upon which the quarry was located had no paved roads, was hilly, and his truck got stuck in a low spot. Dr. Humphrey stated:

I called my wife, who was waiting for me at the lawyer's office with the prosecutor and the detective, who had already been there for a couple of hours. The prosecutor eventually left. [My wife] came and picked me up, took me over to where the attorney was—my attorney at that time, as well as the chief police detective. I gave my confession.

(Tr. at 379-381)

#### **Dr. Humphrey's Change in Medications on January 8, 2004**

45. In his report, Dr. Noffsinger stated:

On 1/8/04 Dr. Ittiara discontinued Dr. Humphrey's Adderall, and Dr. Humphrey was taking Strattera 60 [mg twice] daily, Klonopin 1 mg twice daily, Risperdal 0.25 mg once daily and Lamictal. On 4/1/04 Dr. Humphrey's medications were Strattera 60 mg twice daily, Klonopin 1 mg twice daily, Risperdal 0.25 mg at bedtime, and Lamictal 50 mg at bedtime.

(St. Ex. 6 at 16)

#### **January 21, 2004, Indictment against Dr. Humphrey**

46. On January 21, 2004, an Indictment was filed in the Court of Common Pleas of Williams County, Ohio, in *State of Ohio v Stephen H. Humphrey*, Case Number 04 CR 001 [*State v Humphrey*], charging Dr. Humphrey with seven criminal offenses:
- Count I alleged that, on or about November 23, 2003, Dr. Humphrey had taken a 1996 Case 580 backhoe, valued at \$50,000, without the owner's consent, and that

- such conduct constitutes Grand Theft, a violation of Section 2913.02(A)(1), Ohio Revised Code, a felony of the fourth degree.
- Count II alleged that, on or about November 23, 2003, Dr. Humphrey had knowingly caused damage in the amount of \$29,000 to property belonging to another, said property being a 1996 Case 580 backhoe. Count II further alleged that such conduct constitutes Vandalism, a violation of Section 2909.05(B)(1)(a), Ohio Revised Code, a felony of the fourth degree.
  - Count III alleged that, on or about November 23, 2003, Dr. Humphrey had taken a 1996 Homemade Utility Trailer, valued at \$3,000, without the owner's consent, and that such conduct constitutes Theft, a violation of Section 2913.02(A)(1), Ohio Revised Code, a felony of the fifth degree.
  - Count IV alleged that, on or about December 18, 2003, Dr. Humphrey had taken a 2001 Hurst Tandem Axle Trailer, valued at \$3,000, without the owner's consent, and that such conduct constitutes Theft, a violation of Section 2913.02(A)(1), Ohio Revised Code, a felony of the fifth degree.
  - Count V alleged that, on or about December 18, 2003, Dr. Humphrey had obtained a load of pole barn lumber valued at \$3,230.16, and that Dr. Humphrey had known or had had reasonable cause to believe that said property had been obtained through the commission of a theft offense. Count V further alleged that such conduct constitutes Receiving Stolen Property, a violation of Section 2913.51(A), Ohio Revised Code, a felony of the fifth degree.
  - Count VI alleged that, on or about December 18, 2003, Dr. Humphrey had obtained a Bobcat T190 Track Loader valued at \$26,970, and that Dr. Humphrey had known or had had reasonable cause to believe that said property had been obtained through the commission of a theft offense. Count VI further alleged that such conduct constitutes Receiving Stolen Property, a violation of Section 2913.51(A), Ohio Revised Code, a felony of the fourth degree.
  - Count VII alleged that, on or about December 18, 2003, Dr. Humphrey had obtained a Crosby Flatbed Trailer valued at \$3,500, and that Dr. Humphrey had known or had had reasonable cause to believe that said property had been obtained through the commission of a theft offense. Count VII further alleged that such conduct constitutes Receiving Stolen Property, a violation of Section 2913.51(A), Ohio Revised Code, a felony of the fourth degree.

(St. Ex. 2)

### Events of January 24, 2004

47. In an Investigation Narrative dated January 24, 2004, a Williams County Sheriff's Deputy stated that he had responded that day to a call from a man named Mr. Gearhart, a co-owner of property purchased from Stone Company. Mr. Gearhart told the deputy that, in December 2003, while hunting on his property, he had noticed a flatbed truck on the southwest side of a quarry located on his property. At the time, Mr. Gearhart had assumed that it was an old truck that Stone Company "had junked out and left there." However, on January 24, 2004, Mr. Gearhart noticed that the truck had been moved to the other side of the quarry, and it appeared someone had backed the truck up to a junk pile and got stuck in the mud. He called Sheriff's Department because the "situation seemed suspicious to him \* \* \*." (St. Ex. 8 at 21)

The deputy noted that Mr. Gearhart had advised that he saw a man walking around the quarry that morning, and that he had given the man written permission to bird watch on the property. Mr. Gearhart told the deputy that "the man's name was Larry." (St. Ex. 8 at 21)

48. The deputy walked back onto the property to where the junk pile was located, found the truck that Mr. Gearhart had described, and "observed someone sitting in the cab" of the truck. When the deputy walked up to the vehicle, the man in the truck "identified himself as Larry, and advised he has permission from Mr. Gearhart to be there." The deputy told Larry to get out of the truck, and asked him if he had been there when Mr. Gearhart had located the vehicle. The deputy reported, "Larry replied that he was present when the vehicle was discovered, and he was just there bird watching." After Larry got out of the vehicle, he "did not leave the area \* \* \* and just stood on the west side of the vehicle looking across the quarry." The deputy noted that he had believed he recognized Larry, but was unable to place him. (St. Ex. 8 at 21)

In his report, the deputy also noted that, upon checking the vehicle's license plate, he learned that the truck was registered to Stephen Humphrey, whom the deputy was aware had recently been indicted on several theft-related felony counts. (St. Ex. 8 at 22)

The deputy further reported that, after he had checked the area for a while, Larry told the deputy that he was going to walk back to his vehicle to get his camera and photograph the wildlife. The deputy told Larry that he also needed to get his camera, and the deputy started walking back to where his vehicle was parked next to a blue two-door Mercedes Benz. The deputy noticed that Larry was still standing in the same spot looking west across the quarry. When the deputy arrived at his vehicle, he ran the license plate on the Mercedes-Benz and it came back registered to Steven Humphrey. The deputy reported, "I then remembered where I had seen Larry, as I was the one who had served [Dr. Humphrey] his indictment summons." The deputy realized that "Larry" was actually Dr. Humphrey. (St. Ex. 8 at 22)

The deputy started walking back toward the junk pile, but stopped when he was able to see the last place where he had last seen "Larry." Larry was no longer there. The deputy

noted: “When I could not see Larry I assumed he would be making his way back toward his vehicle. As I was approaching [the road], I observed Larry a short distance ahead of me walking as fast as he could towards the Mercedes.” The deputy called out to Larry several times and asked him to wait for a moment so he could speak with him. Larry stopped next to the deputy’s vehicle and waited. (St. Ex. 8 at 22)

When the deputy spoke to Larry he asked him, among other things, for his last name. Larry told the deputy that his last name was Johnson. The deputy asked for identification. Larry checked his pockets for a few moments, then advised the deputy that he did not have any. At that point, the deputy told Larry that he knew who he really was, and advised that he had been the deputy who had served him with his indictment. The deputy reported: “I asked Mr. Humphrey what he was doing out here and why his truck was stuck on [Mr. Gearhart’s] property. Mr. Humphrey advised that he was only trying to help clean up some junk. I asked him if he made a common practice of cleaning up junk piles on OTHER people’s property, and he replied ‘No.’” (St. Ex. 8 at 22-23) (Emphasis in original)

At that time, the deputy arrested Dr. Humphrey. Dr. Humphrey was charged with Falsification and Criminal Trespassing. He posted bond and was released from police custody. (St. Ex. 8 at 23-24)

#### **Dr. Humphrey’s April 26, 2004, Plea of Guilty to the Indictment**

49. On April 26, 2004, Dr. Humphrey appeared in the Williams County Court of Common Pleas and entered a plea of guilty to Counts I through VII of the Indictment. The Court accepted Dr. Humphrey’s guilty plea, ordered the Adult Probation Office of Williams County to conduct a pre-sentence investigation of Dr. Humphrey, and scheduled a sentencing hearing for June 2, 2004. A Journal Entry Accepting Guilty Plea was filed in *State v Humphrey* on May 3, 2004. (St. Exs. 3 and 5)

#### **Events of May 7, 2004**

50. In a Narrative Report, a Bryan Police Officer stated that, on May 7, 2004, at 8:15 p.m.:

[The] Pastor of the Bryan Nazarene Church reported that he saw a blue Mercedes recently enter the parking lot of the Nazarene Church and a man had exited the vehicle. The man went behind the family life center building of the church. The [complaining party] explained that the fence leading to the Bryan City Street Department ends there. The [complaining party] advised the man then came back, turned his car around, and backed it up to load something in the trunk. The man then drove off \* \* \*. \* \* \* The [complaining party] also mentioned that his wife told him that she had seen the same vehicle there just the other day.

The description of the man in the vehicle fit that of \* \* \* Dr. Stephen Humphrey. [Dr. Humphrey's] Lexus SUV is currently impounded at the Street Department until he can repair it and remove it.

(St. Ex. 8 at 30)

The police located Dr. Humphrey and Dr. Humphrey went to the police station. Dr. Humphrey provided a written statement indicating that he had borrowed some tools from a Lexus dealer in Ft. Wayne to enable him to remove a locking lug nut on his Lexus SUV. He said that he was supposed to return the tools to the dealer the following morning. Dr. Humphrey admitted that he had parked in the church parking lot and entered the Bryan City Street Department's garage to remove a tire from his SUV. He put the tire in his trunk to take it to Wal-Mart to get it repaired. Dr. Humphrey further admitted "that he was told by his attorney today that the gates are closed to the Street Department at 3:30 p.m." According to police, Dr. Humphrey "said that he was not trying to do anything illegal, he was only there to try to get his vehicle fixed." (St. Ex. 8 at 30)

#### **Dr. Ittiara's May 13, 2004, Letter Concerning Dr. Humphrey**

51. In a letter dated May 13, 2004, addressed to To Whom It May Concern, Dr. Ittiara stated, among other things:

Stephen Humphrey has been in psychiatric treatment with me since October 2, 2003. His initial complaints are restless sleep, impulsivity, impatience, depression and anxiety. He had given history of psychiatric treatment in the past during his school years of grades 1 to 4 and again starting July 2002. He was treated for ADHD at school and again in July 2002. Since 1997 he has been taking meds for anxiety and since 2002 for ADHD. I had been treating him since October 2003 with [diagnoses] of ADHD and Major depression with bipolar tendency.<sup>6</sup>

\* \* \*

It is to be noted that some of the characteristics of [Dr. Humphrey's] illness are impulsivity, inattention and lack of affective comprehension of the consequences of his actions. During the course of his illness Mr. Humphrey had feelings of omnipotence at times and that his wishes are the only thing to be considered and that whatever he wanted was his. He did not care how it affected others or whether it affected others at all. During the active stages of his illness, he was unable to feel the significance of his actions. And was unlikely to be remorseful about it. However, since starting treatment he has become more reality oriented and aware of his actions and its implications. At

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<sup>6</sup> Dr. Noffsinger stated in his report that Dr. Ittiara had diagnosed Dr. Humphrey with "Bipolar Disorder and severe depression." (St. Ex.6 at 9)

present he has been remorseful of his impulsive actions of criminal nature of the past.

His illness is likely to be long-term, but with adequate treatment can be maintained to have normal functioning and adapt to society standards.

His prognosis for sustained improvement is good. He needs to continue in out patient psychiatric treatment. He is prescribed Risperdal 0.25 mg at bedtime and Lamictal 200 mg at bedtime, both for mood stabilization and Klonopin 0.5 mg twice a day for control of his anxiety.

(Resp. Ex. 1.3)

### **Dr. Humphrey's June 2, 2004, Sentencing Hearing**

52. On June 2, 2004, Dr. Humphrey appeared in court for sentencing. The court sentenced Dr. Humphrey to incarceration for eighteen months on Counts I, II, and VI, and for twelve months on Counts III, IV, V, and VII, and ordered that all terms of incarceration be served concurrently. The court further ordered that, following Dr. Humphrey's release, he serve up to a maximum of five years of post-release control. Finally, the court ordered that Dr. Humphrey pay all restitution as determined by the probation office, all costs of prosecution, any court-appointed counsel costs, and any supervision fees permitted by law. (St. Exs. 4 and 5)
53. Dr. Humphrey testified that the amount of restitution he had been required to pay as determined by the probation department had been approximately \$13,000. (Tr. at 322)
54. In sentencing Dr. Humphrey to the maximum allowable term of imprisonment on each offense,<sup>7</sup> the court stated, in part, as follows:

I find that at this point in your healing process you've not adequately addressed the problem with your compulsion adequately, you've not addressed the problem of this apparent feeling of omnipotence that you have in conducting these acts in a very blatant open manner. I think that they are problems that can be addressed with proper psychological treatment, but I don't think that you have seriously embarked on that treatment. I think in an instant or two [you] decide that you know better than the doctor, you've taken yourself off meds, you've not made attempts to reconnect with certain of the physicians.

(St. Ex. 5 at 19) The court further advised Dr. Humphrey to discuss with his attorney the possibility of gaining a shorter term of incarceration through judicial release. However, the

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<sup>7</sup> See State's Exhibit 3 and State's Exhibit 5 at 20.

court added that “that would only be considered and granted if there is in place a specific plan to address your psychological problems, which I believe are significant.” (St. Ex. 5 at 20)

### **The State Medical Board’s August 11, 2004, Notice of Opportunity for Hearing**

55. On August 11, 2004, the State Medical Board of Ohio [Board] issued a notice of opportunity for hearing to Dr. Humphrey advising him that it had proposed to determine whether to impose discipline upon his certificate to practice podiatric medicine and surgery in Ohio. The Board based its proposed action on allegations that, in 2004, in *State v. Humphrey*, Dr. Humphrey had been found guilty of seven felony offenses. (State’s Exhibit 1A)

### **Dr. Humphrey’s September 15, 2004, Judicial Release Hearing**

56. On September 15, 2004, Dr. Humphrey appeared in court concerning his motion for judicial release. The court stated that it believed that Dr. Humphrey had “processes at work that certainly added to [his] behaviors[,]” and that, if not addressed, those problems may be beyond Dr. Humphrey’s control. The court further stated that it did not believe that Dr. Humphrey’s crimes had been economic in nature; rather, “there are other forces that drove [him,] and [he] to sort all that out.” (Resp. Ex. 5 at 4)

The court granted Dr. Humphrey’s motion, released him from incarceration, and placed him on community control for three years. Dr. Humphrey was ordered to comply with all conditions of community control or risk being returned to prison to complete his sentence. Among those conditions, the court ordered that Dr. Humphrey submit to a mental health assessment, sign any appropriate releases to permit the court to review the assessment, and comply with any treatment recommendations that result from the assessment. (Resp. Ex. 5 at 5-6)

### **Dr. Humphrey’s Psychiatric Care and Treatment During and Immediately Following His Incarceration**

57. Dr. Noffsinger stated in his report that, during Dr. Humphrey’s incarceration from June through September 2004, Dr. Humphrey had

received a psychiatric screening evaluation, but did not receive mental health treatment \* \* \*. He received Wellbutrin for five days, which was discontinued due to restless legs and insomnia. Otherwise, he did not receive psychotropic medications in prison.

Upon his release from prison Dr. Humphrey took Klonopin 0.25 mg and Lamictal 12.5 mg daily. He discontinued all of his medications in November 2004, and has not received any psychotropic medications since that time. \* \* \* Dr. Humphrey told me that he has felt good since November 2004, and has not experienced any emotional symptoms.

(St. Ex. 6 at 10)

**Assessment at Cleveland Clinic from November 16 through December 8, 2004, and the February 2005 Report of Dr. Collins**

58. On November 16, 2004, following Dr. Humphrey's judicial release from prison, and based upon a referral from Dr. Humphrey's attorney, Dr. Humphrey was admitted to The Cleveland Clinic Department of Psychiatry, Alcohol and Drug Recovery Center [the Cleveland Clinic], for a comprehensive psychiatric/chemical dependency/behavioral assessment. (St. Ex. 9; Resp. Ex. 1.4)

By letter dated February 24, 2005, Gregory B. Collins, M.D., reported to Dr. Humphrey's attorney concerning the assessment and the results obtained. With regard to the results, Dr. Collins noted that, on December 8, 2004, Dr. Humphrey left the Cleveland Clinic and did not return. Dr. Collins further noted, "No treatment plan was formulated for him as a result of his abrupt departure." (St. Ex. 9 at 9)

59. Included in the information gathered by the Cleveland Clinic during Dr. Humphrey's evaluation is the following:

- Dr. Collins' 2005 report provides information obtained from Dr. Humphrey's presentence investigation. Dr. Collins wrote that, among other things: "[i]t was noted that\* \* \* as a child the patient had experienced difficulties with hyperactivity and impulsivity. The defendant claimed that his parents did not recognize his medical problem and thought that he was just misbehaving, resulting in tension between the parents, his siblings, and himself." (St. Ex. 9 at 2-3)
- Concerning Dr. Humphrey's social history, Dr. Collins wrote in his 2005 report, "Although the patient alleges that he was hyperactive, his father was contacted and denied any memory of testing or treatment for hyperactivity." (St. Ex. 9 at 8)
- In his 2005 report, Dr. Collins wrote:

When Dr. Humphrey was asked here what was on his mind when he stole the compressor in October 2001 he stated that he didn't remember it at all. When he was confronted he had to see the videotape. Now he states that he felt like there was "something chasing him," he stated that "it was fast, and that he was in and out of the mental state around and leading to the event." He states he went into the hospital with a good purpose and came out a different person with a different state of mind, scared of something; he doesn't know what it was. It seemed "dark" and he "needed to get away" and "needed to hide." He "felt isolated against a bunch of other people," and "had to do this to solve the problem." He felt a sense of gloom and doom. He felt all these emotions before laying hands on the compressor. It was very heavy but he picked it up in his

arms, didn't wheel it, carried it out. He also took some little boxes of hand tools.

(St. Ex. 9 at 4)

- Dr. Collins described a collateral contact with Dr. Ittiara. Dr. Ittiara remembered Dr. Humphrey “as very hyper, impulsive, fidgety, going on and on in conversation, hypomanic.” Dr. Collins wrote that Dr. Ittiara further stated:

[Dr. Humphrey] had a tendency to manipulate, wanted a letter to the court. He tended to minimize his offenses, claimed he committed the offenses in a way which was out of his control. He would only reveal as much as the police knew but was remorseful. He had problems with his wife, felt she wasn't supportive of him and blamed her for many of his problems. He stole “for a thrill.” Dr. Ittiara notes that the stimulants may have disinhibited the patient somewhat.

(St. Ex. 9 at 8)

- Dr. Collins described a collateral contact with Dr. Humphrey's wife. She stated, among other things, that their marriage had been strained for a number of years and that she lived with her parents. She further stated that, on one occasion, “[w]hen she found his Klonopin, he stated it was for tinnitus \* \* \*.” Moreover, she stated that Dr. Humphrey lacked remorse. She further expressed her belief that his medications “and his deep-rooted problems” are the cause of his troublesome behavior. (St. Ex. 9 at 8-9)
- Dr. Collins described a collateral contact with Dr. Ammons.<sup>8</sup> He reported that Dr. Ammons told him:

[Dr. Humphrey] would miss or be very late for appointments often requiring [Dr. Ammons] to keep the office open late for him. He showed no consideration or remorse for [Dr. Ammons] over [her] inconvenience. He would lie that he was on the way [there] when he was not. He was late in making his payments and got far behind. He had to come up with a large sum to catch up. He had an arrogant attitude, a lack of remorse about the compressor theft, felt it was “not that bad.” \* \* \* [Dr. Ammons] feels he is antisocial and [she] would not attribute his thefts to a drug effect. She felt he was a “con artist.” When he was seeing Dr. Chahal he would drop in for scripts, would not have an appointment, was not paying his bills. She had to set limits on this, refused to do it this way. Often he would request prescriptions be

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<sup>8</sup> Dr. Collins appears to refer to his conversation with Dr. Ammons on December 7, 2004, rather than another collateral contact between a CCF counselor and Dr. Ammons on December 1, 2004. (See Resp. Ex. 1.4 at 143-144, 159-160)

mailed to him, didn't want to make the 40 minute trip. Wanted special consideration. He was last seen on March 17, 2003, and requested a record be sent to himself, not to another provider. He seemed to have financial problems. Dr. Ammons felt this might have been his motive for theft, that is to sell the items for money. She recalls he had a history of taking other small items. \* \* \*

(St. Ex. 9 at 4)

60. In his 2005 report, Dr. Collins stated his diagnostic conclusions and recommendations regarding Dr. Humphrey:

Based on the preponderance of evidence presented to us, which included extensive interviews with his treating physicians, reviews of police records, newspaper reports and interviews with Dr. Humphrey and his spouse and father, I wish to conclude that the psychiatric diagnoses are:

- Axis I: Kleptomania; Attention Deficit Hyperactivity Disorder (ADHD); drug-induced psychosis due to combination of amphetamine and Strattera with the result of worsening the Kleptomania;
- Axis II: Personality disorder with antisocial, narcissistic and passive aggressive traits;
- Axis III: Chronic low-grade kleptomaniac tendencies with theft of small items and rare theft of larger item (compressor); stimulant-affected psychosis which worsened the impulse to steal resulting in the commission of several major thefts of large items (construction equipment);
- Axis V: Poor due to complications from the above;
- GAF: 50.

Note: Although this individual was taking medications as prescribed from his physicians, it appears that the medications most likely worsened his premorbid tendency to impulsively steal things. It does not appear that the patient consciously or unconsciously manipulated his physicians to give him higher doses, although there is some record of his running out of stimulant medication early on at least one occasion. For the most part he was regular in his medication management, taking the medications as prescribed over long periods of time.

However, stimulant dependence cannot completely be ruled out here. It may be that the patient exaggerated his symptoms of hyperactivity and anxiety in order to obtain stimulant medication to enable him to work longer and faster with more energy in his practice and in his remodeling activities which went on at night. The end result of his use of prescribed stimulants, whether intentionally manipulated or driven by his physician's perception of a

significant psychiatric disorder, resulted in a worsening of a premorbid condition which was to a large extent latent and quiescent, with a history of relatively few and minor eruptions. The medications seemed to produce a dramatic worsening of this premorbid kleptomaniac condition, and the patient was driven to manic and hypomanic behavior involving reckless spending at an auction, and theft of large items of heavy equipment, the thefts of which were effected in a bizarre and inappropriate manner. He also continued to practice podiatric medicine during the time that he was taking these large amounts of stimulant medication.

Recommendations:

1. Abstinence from all stimulant medication including Strattera for a period of time for a longitudinal assessment of his ability to function without these stimulants;
2. Psychiatric follow-up on a consistent and regular basis, at least monthly, by a psychiatrist who also has chemical dependency training and experience, in order to rule out the possibility of drug seeking and medication manipulation;
3. A random drug testing protocol twice weekly for a minimum of one year, followed by weekly testing thereafter for four more years;
4. Active involvement in a supervised Caduceus meeting for recovering physicians;
5. A leave of absence from the practice of medicine for a minimum of six months pending longitudinal psychiatric assessment for stability, reliability, and responsibility as well as freedom from mood altering substances.

(St. Ex. 9 at 9)

61. Dr. Collins subsequently made very substantial changes to his diagnostic conclusions as stated in an affidavit and report dated December 4, 2006. Dr. Collins' new diagnostic conclusions are addressed in more detail below. (Resp. Ex. 2.8 at 1-6)

**April 2005 Evaluation of Dr. Humphrey by Peter R. Breggin, M.D.**

62. In a report dated April 27, 2005, Dr. Breggin gave his conclusions following his evaluation of Dr. Humphrey. Dr. Breggin wrote that he had been asked to evaluate Dr. Humphrey "to determine if his actions that violated the law were the product of a mental disorder and, if so, whether this disorder was caused by prescription medication, including Adderall (amphetamines), Strattera (atomoxetine) and Klonopin (clonazepam)." Dr. Breggin further stated that he had been asked to evaluate Dr. Humphrey's "current mental status, including his ability to practice medicine in a prudent and safe manner." (Resp. Ex. 2.5 at 1)

63. In his report, Dr. Breggin identified himself as “a psychiatrist with a subspecialty in clinical psychopharmacology. I have been in practice since 1968 and continue to see patients who suffer from similar conditions to Dr. Humphrey.” Dr. Breggin stated that his peer-reviewed 1999 publication, attached to his report as Appendix B, “is probably the most detailed review and analysis [concerning the adverse effects of amphetamines] in the medical literature.” Dr. Breggin further stated that he is frequently asked to consult and lecture concerning adverse drug effects at universities, hospital grand rounds, and CME seminars. (Resp. Ex. 2.5 at 1)

Factors That Dr. Breggin Believes Caused Dr. Humphrey’s Felonious Behavior

64. Dr. Breggin opined that Dr. Humphrey’s criminal behavior beginning in 2003 had been the direct result of adverse reactions to medications that he was taking, particularly Adderall and Strattera. Dr. Breggin noted that it is documented in medical literature that amphetamine-induced psychosis and mania have occurred at prescribed dosage levels, and at dosage levels lower than Dr. Humphrey had received. Dr. Breggin opined:

Dr. Humphrey suffered from a Substance-Induced Mood Disorder with Manic Features. The causative substances were the classic stimulant amphetamine (Adderall) and the stimulating medication Strattera. His mental dysfunction was aggravated by the sedative, hypnotic and anxiolytic Klonopin (clonazepam).

The events were probably precipitated by amphetamine toxicity and withdrawal, and were then made persistent and worsened by the effects of Strattera and probably Klonopin \* \* \*. The effects of a stimulant medication like Adderall can be long-lasting after the drug has stopped and I would attribute the initial severity of the manic episode to the Adderall. The continuation of the mania has been due to a combination of amphetamine toxicity and withdrawal and the adverse effects of Strattera.

(Resp. Ex. 2.5 at 4-5)

Dr. Breggin further opined that Dr. Humphrey had been prescribed large doses of Strattera which resulted in manic symptoms such as grandiosity. (Resp. Ex. 2.5 at 5-6)

In addition, Dr. Breggin opined that Klonopin can cause “disinhibition, loss of restraint, and impairment of judgment \* \* \*.” In addition, Klonopin and other benzodiazepines “can cause severe memory problems, such as Dr. Humphrey suffered during the period of his offenses. However, he had been taking Klonopin for a long time before the offenses and the intense memory loss and confusion for the period of these actions is typical of drug-induced mania.” (Resp. Ex. 2.5 at 8)

Factors That Dr. Breggin Believes Caused Dr. Humphrey To Steal an Air Compressor in 2001

65. Dr. Breggin stated that, in 2001, at a time when Dr. Humphrey had been taking only Klonopin, he began taking large doses of pseudoephedrine as a decongestant. Dr. Breggin indicated that pseudoephedrine is a nonprescription over-the-counter drug related to amphetamines. Dr. Breggin further stated that Dr. Humphrey had been taking three to six times the usual dose of the medication. Dr. Breggin opined that pseudoephedrine “would later cause him to become manic.” (Resp. Ex. 2.5 at 11)

Dr. Breggin further stated that, in addition to pseudoephedrine, “Dr. Humphrey began to take Andro-Testone which was, at the time, an over-the-counter supplement containing the steroids androstenedione and androstenediol. (Resp. Ex. 2.5 at 11)

Dr. Breggin opined that the combination of pseudoephedrine, androstenedione, and androstenediol caused a manic-like loss of judgment that resulted in Dr. Humphrey’s theft of the compressor in October 2001. (Resp. Ex. 2.5 at 11-12)

66. Dr. Breggin’s report of his April 2005 evaluation of Dr. Humphrey represents the first instance where Dr. Humphrey had reported having used pseudoephedrine and steroid medications at the time he committed the theft of the air compressor. From Dr. Chahal’s progress notes through Dr. Collins’ 2005 report concerning Dr. Humphrey’s approximately three-week evaluation at the Cleveland Clinic, there is no evidence that Dr. Humphrey had advised anyone of his use of those substances until he was evaluated by Dr. Breggin on April 13, 2005. (St. Exs. 6, 9; Resp. Ex. 1.2; Resp. Ex. 1.3; Resp. Ex. 1.4; Resp. Ex. 2.7 at 78-85)

**2006 Board-Ordered Evaluation of Dr. Humphrey by Dr. Noffsinger**

67. In a letter dated January 18, 2006, Steven G. Noffsinger, M.D., provided the report of his psychiatric evaluation of Dr. Humphrey. Dr. Noffsinger noted that, by letter dated June 6, 2005, the Board’s Secretary had requested that Dr. Noffsinger evaluate Dr. Humphrey and examine sources of information provided to him by the Board’s Secretary and/or Board staff. The purpose of the evaluation was to determine, among other things, whether Dr. Humphrey suffers from any mental disorder that affects his ability to practice podiatric medicine according to acceptable standards. (St. Ex. 6 at 1-2)

68. In his report, Dr. Noffsinger concluded with a reasonable degree of medical certainty that Dr. Humphrey currently had the diagnoses of:

- “Generalized Anxiety Disorder 300.02”;
- “Personality Disorder Not Otherwise Specified (with antisocial, narcissistic, and passive-aggressive traits) 301.9”;
- “Adult Antisocial Behavior V71.01”;
- “Malingering V65.2”

(St. Ex. 6 at 20)

69. In his report, Dr. Noffsinger set forth the bases for his diagnosis of Personality Disorder Not Otherwise Specified (with antisocial, narcissistic, and passive-aggressive traits). Dr. Noffsinger's bases with regard to Dr. Humphrey's antisocial traits include:

- Dr. Humphrey's repeated thefts;
- Dr. Humphrey's "history of recurrent lying in order to escape responsibility for his actions";
- Dr. Humphrey's inability to comprehend the consequences of his thefts, and lack of remorse;
- Descriptions of Dr. Humphrey obtained by Dr. Collins from Dr. Ammons and Dr. Ittiara.

(St. Ex. 6 at 21-22) Further, Dr. Noffsinger's bases with regard to Dr. Humphrey's narcissistic traits include:

- Dr. Humphrey's feelings of entitlement related to the theft of the compressor.
- Descriptions of Dr. Humphrey obtained by Dr. Collins from Dr. Ammons and Dr. Ittiara.
- Information reported by Dr. Collins that Dr. Humphrey expected special consideration from Dr. Chahal.

(St. Ex. 6 at 22-23) Finally, Dr. Noffsinger's bases with regard to Dr. Humphrey's passive/aggressive traits include Dr. Humphrey's theft of a compressor to express his anger toward administrators at Williams County Community Hospital.

70. Dr. Noffsinger determined that "Dr. Humphrey's recurrent stealing is attributed to a mental disorder, namely Adult Antisocial Behavior, which involves criminal behavior not caused by a mental illness." Dr. Noffsinger stated that he considered and rejected the possibility that Dr. Humphrey's recurrent stealing had resulted from kleptomania because, among other things, Dr. Humphrey's conduct did not provide Dr. Humphrey with the emotional responses characteristic of kleptomania. (St. Ex. 6 at 23)

71. Dr. Noffsinger noted that he had considered the possibility that Dr. Humphrey suffered from ADHD but concluded that that was unlikely. Dr. Noffsinger wrote that, "other than Dr. Humphrey's self-report to [other physicians] that he had symptoms of [ADHD], there is no other data supporting this diagnosis." (St. Ex. 6 at 25)

Dr. Noffsinger further noted that he had considered and rejected the possibility that Dr. Humphrey had experienced a medication-induced psychosis from the Adderall, Strattera, and Klonopin that he was receiving during the time of the offenses. (St. Ex. 6 at 26)

72. Dr. Noffsinger advised, in part:

It is my opinion with reasonable medical certainty that, due to his Personality Disorder Not Otherwise Specified and Adult Antisocial Behavior, Dr. Humphrey is presently incapable of practicing podiatric medicine according to acceptable and prevailing standards of care. Dr. Humphrey's Personality Disorder Not Otherwise Specified, especially with his antisocial and narcissistic traits, results in serious mental symptoms that render Dr. Humphrey incapable of practicing medicine. Specifically, Dr. Humphrey's personality disorder substantially impairs his perception of himself and others, judgment, behavior, and ability to carry out his fiduciary duty toward his patients.

It is my opinion with reasonable medical certainty that Dr. Humphrey's Generalized Anxiety Disorder does not impact his ability to practice podiatric medicine according to acceptable and prevailing standards of care.

It is my opinion with reasonable medical certainty that Dr. Humphrey's Personality Disorder Not Otherwise Specified and Adult Antisocial Behavior are unlikely to respond to treatment. Individual and group psychotherapy has been utilized in an effort to treat these diagnoses, but results are generally poor, and take years to accomplish. Due to the longstanding nature of Dr. Humphrey's personality problems (personality is formed in childhood), it is unlikely that his personality problems will sufficiently respond to psychotherapy. There is no medication treatment available for these diagnoses. Dr. Humphrey may elect to pursue treatment for his Generalized Anxiety Disorder, which is addressed by a combination of medication treatment (such as Buspar or Klonopin) and individual psychotherapy.

It is my opinion with reasonable medical certainty that there are no restrictions or conditions that would allow Dr. Humphrey to continue to practice podiatric medicine. This is due to the following:

1. Dr. Humphrey is a convicted felon, and has committed numerous illegal acts. Due to his antisocial and narcissistic personality traits, Dr. Humphrey is likely to continue to offend, and is at high risk to offend against his patients, an especially vulnerable population. Due to his Personality Disorder Not Otherwise Specified and Adult Antisocial Behavior Dr. Humphrey cannot be trusted to carry out his fiduciary duty toward his patients.
2. There is no treatment for Dr. Humphrey's Personality Disorder Not Otherwise Specified that can reasonably be expected to treat Dr. Humphrey's antisocial and narcissistic traits. No medication treatment exists to treat these symptoms. Psychotherapy is only of

limited value in addressing these symptoms, and any improvement would take years.

3. There is no other, more treatable mental illness that has led to Dr. Humphrey's incapacity to practice medicine according to acceptable and prevailing standards of care.
4. Intermittent supervision of Dr. Humphrey's practice would be insufficient to protect patients from Dr. Humphrey's antisocial and narcissistic traits. Because Dr. Humphrey has at times impulsively offended, only constant, shoulder-to-shoulder supervision of every facet of Dr. Humphrey's practice would sufficiently protect his patients, and this would likely be impractical.

(St. Ex. 6 at 27-28)

### **The Board's February 2006 Notice of Opportunity for Hearing**

73. On February 8, 2006, the State Medical Board of Ohio [Board] issued a notice of opportunity for hearing to Dr. Humphrey advising Dr. Humphrey that it had proposed to determine whether to impose discipline upon his certificate to practice podiatric medicine and surgery in Ohio. The Board based its proposed action on allegations that, following a Board-ordered psychiatric evaluation, the evaluating psychiatrist had notified the Board of his opinion that Dr. Humphrey is incapable of practicing podiatric medicine and surgery according to acceptable and prevailing standards of care due to mental disorder. (State's Exhibit 1Z)

### **Dr. Collins' 2006 Affidavit and Opinion Letter**

74. In addition to his February 24, 2005, report, Dr. Collins provided a second report dated December 4, 2006, shortly before the hearing began. In the latter report, Dr. Cullen stated that he wished to "submit a more cogent opinion than I was able to formulate in 2005, as I have reviewed some additional documents since then, and by way of same, I have acquired some new important information. Specifically, Dr. Collins stated that he "only recently became aware of the prior evaluations done by Drs. Breggin and Noffsinger, and have only recently acquired the statement by Dr. Humphrey himself, regarding Dr. Noffsinger's evaluation."<sup>9</sup> Dr. Humphrey's documents included 54 pages of exhibits that I had not heretofore seen or examined." Dr. Collins further stated that Dr. Humphrey's case is a very difficult one; "[n]onetheless, since I have invested more time in this case than any other reviewer, and since my review was largely completed objectively for diagnosis and treatment, and not for advocacy, I feel that I am in the best position to objectively render an opinion." (Resp. Ex. 2.8 at 4-5)

Dr. Collins stated that, in his opinion, Dr. Humphrey's criminal actions had resulted directly from "a manic-hyperactive form of mental illness." The illness arose the first time when

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<sup>9</sup> The last item refers to Dr. Humphrey's July 20, 2006 Critical Analysis of Dr. Noffsinger's Report and attachments. (Resp. Ex. 2.7)

Dr. Humphrey self-treated with the pseudoephedrine, androstenedione, and androstenediol. Dr. Collins further stated that “these classes of drugs have been directly and frequently associated with toxic psychoses and marked changes of personality and behavior, usually in the direction of paranoia, agitation, and hyperactive manic-like states.” Moreover, Dr. Collins stated that, at the time Dr. Humphrey took the compressor from Williams County Hospital, his “mental state at the time reflected bizarre preoccupations with irrational fears, a strange feeling of persecution, and a sense of dark foreboding, all for no apparent reason, but most likely reflecting a drug-induced psychosis.” (Resp. Ex. 2.8 at 5)

In Dr. Collins’ opinion, Dr. Humphrey was then misdiagnosed as having ADHD and given inappropriate medications. Dr. Collins stated:

Dr. Humphrey was prescribed rapidly increasing doses of amphetamine stimulants, the same drug which had made him toxic in the first place. Subsequent “treatment” with high-potency amphetamines and other, similar stimulants almost immediately led to the bizarre acts of illegal behavior for which Dr. Humphrey was prosecuted \* \* \*. Dr. Humphrey’s bizarre, uncharacteristic, illegal behavior occurred off and on for the next several months, until his incarceration led to a discontinuation of the stimulants. Since then, in June of 2004, there have been no further bizarre episodes, and no thefts of any kind. Dr. Humphrey has apparently returned to his normal baseline state, and is mounting a defense for himself with his attorney, something he was incapable of doing while psychotic on his medications. In summary, Dr. Humphrey suffered a medication-induced psychosis of severe degree, which was undiagnosed and mistreated at the time, resulting in a worsening of his condition, his personality, and his behavior.

(Resp. Ex. 8 at 5)

Furthermore, Dr. Collins stated that he believes that other diagnostic considerations are minor or erroneous. Dr. Collins stated that there is no evidence to support substance abuse or dependency. Further, Dr. Collins stated that “[p]ersonality disorder is a diagnosis which cannot be reliably made on a person suffering from a psychotic process. Also there is no evidence of a long-standing, repetitive pattern typical for a severe personality disorder. Psychological testing did not diagnose a personality disorder at the Cleveland Clinic.” In addition, Dr. Collins stated that malingering is not supported, because Dr. Humphrey had had “every incentive to malingering and feign illness and psychosis at trial, which neither he nor his lawyers raised as a defense.” Moreover, Dr. Collins stated that he now believes that kleptomania had most likely *not* been the cause of Dr. Humphrey’s behavior. (Resp. Ex. 8 at 5-6)

Finally, Dr. Collins stated:

Since the primary etiology for Dr. Humphrey’s illegal behavior was a medication-induced psychosis, and since that type of medication has been

discontinued, no further ‘relapses’ or recurrences are expected. Dr. Humphrey’s prognosis is excellent for sustained recovery. I would however recommend monthly psychotherapy visits with a highly qualified psychiatrist, to monitor his progress, and to keep the Board informed of his stable recovery. In my opinion, Dr. Humphrey is capable of practicing podiatric medicine according to the usual and customary standards, and I would recommend a prompt return to active practice.

(Resp. Ex. 8 at 6)

### **Dr. Humphrey’s Analysis of Dr. Noffsinger’s Report**

75. At hearing, Dr. Humphrey submitted a document dated July 20, 2006, entitled Critical Analysis of Dr. Noffsinger’s Report. Dr. Humphrey attached 54 pages of exhibits to that document. In Dr. Humphrey’s analysis, which itself is 32 pages of single spaced, small type, he offered his perspective concerning what he views to be mistakes in Dr. Noffsinger’s report. Dr. Humphrey noted that he had written a similar analysis of Dr. Collins’ report. (St. Ex. 2.7)
76. Although much of the analysis appears flawed, two of Dr. Humphrey’s arguments are reasonable:
- Dr. Humphrey criticized a statement in Dr. Noffsinger’s report that Dr. Humphrey had been on time for his interview. Dr. Humphrey wrote that, in fact, he had been thirty minutes late for the interview. (St. Ex. 6 at 11; Resp. Ex. 2.7 at 4) At hearing, Dr. Noffsinger confirmed that Dr. Humphrey had been late for his interview and acknowledged it had been a clerical error. (Tr. at 67)
  - Dr. Humphrey further criticized a statement in Dr. Noffsinger’s report that Dr. Noffsinger had had Dr. Humphrey count backwards “from” seven. Dr. Humphrey wrote that he had actually been asked to count backward from 100 “by” sevens. (St. Ex. 6 at 11; Resp. Ex. 2.7 at 4) At hearing, Dr. Noffsinger acknowledged that he had had Dr. Humphrey count backward from 100 by sevens. Dr. Noffsinger attributed the misstatement to a transcription error. (Tr. at 67)

However, many of Dr. Humphrey’s criticisms require acceptance of Dr. Humphrey’s version of events which are not substantiated in the record. In fact, Dr. Humphrey made assertions that conflict with other evidence in the record. For example:

- Dr. Noffsinger’s report states that Dr. Humphrey had told Dr. Staneluis that he had taken the compressor and tools from Williams County Community Hospital out of revenge because the hospital had let him down. Dr. Humphrey denied having made such a statement, and asserted that the notion of revenge had been a mere hypothesis by Dr. Staneluis in his August 8, 2002, note. Dr. Humphrey pointed to pages 14 and 15 of Dr. Noffsinger’s report, where Dr. Noffsinger had quoted Dr. Staneluis’ August

8, 2002 note, and Dr. Humphrey asserted that, “[i]n spite of these apparent facts, the Noffsinger Report concludes on its own that revenge was the motivation for the event in question.” (St. Ex. 6 at 14-15; Resp. Ex. 2.7 at 8, 26) (Emphasis added)

Dr. Humphrey’s criticism is misleading at best. On page 14 of Dr. Noffsinger’s report, directly above the quotation referenced in Dr. Humphrey’s analysis, Dr. Noffsinger had quoted another of Dr. Staneluis’ notes. In that note, dated July 11, 2002, Dr. Staneluis had stated:

Discussed the possibility of the need for excitement as a typical need for individuals with ADHD. [Dr. Humphrey] agreed that the excitement was interesting but reported that he took the compressor more as revenge. He stated [that] he overcame normal types of inhibition with the idea that the hospital “They owed me.”

(St. Ex. 6 at 14; Resp. Ex. 1.2 at 47) (Emphasis added) Thus, Dr. Noffsinger’s statement was directly supported by Dr. Staneluis’ note, and Dr. Humphrey’s criticism is unfounded.

- Dr. Humphrey criticized Dr. Noffsinger’s statement that Dr. Humphrey had not complained of ADHD symptoms until after his theft of the compressor. Dr. Humphrey asserted that he himself had *never* reported ADHD symptoms to Dr. Ammons or Dr. Staneluis, who were the first to consider ADHD as a diagnosis. (Resp. Ex. 1.2 at 13-21; Resp. Ex. 2.7 at 26-27)

Dr. Humphrey’s assertion that he had never complained of ADHD symptoms to Dr. Ammons or Dr. Staneluis is incorrect. In a note dated February 21, 2002, Dr. Staneluis stated:

Referred by Dr. Ammons for psychotherapy and the further consideration of ADHD symptoms. *Steve reported that in his opinion he plagued [sic] by ADHD type symptoms all of this life.* I discussed the possibility the symptoms might [result] from various types of ego constructs rather than ADHD.

(Resp. Ex. 1.2 at 45) (Emphasis added)

### **Testimony of Dr. Ammons**

77. Dr. Ammons testified concerning, among other things, statements attributed to her by the Cleveland Clinic:

- A statement in the Cleveland Clinic medical records attributes the following statement to Dr. Ammons: “He would miss or be very late for appointments requiring

her to keep the office opened late for him; showed no consideration or remorse\* \* \*.” (Resp. Ex. 1.4 at 185)

With regard to that statement, Dr. Ammons testified concerning an episode that she was not involved in. She testified that her husband works in her office, and that he had come home frustrated saying that Dr. Humphrey had called the office to advise he was on his way for his appointment and would be there in five or ten minutes; however, it was an hour by the time he arrived. Dr. Ammons further testified that she can recall episodes where Dr. Humphrey had come into the office late for appointments “not being able to get out of surgery,” and that he had rushed in to get his prescription because Dr. Ammons was leaving the office. (Tr. at 245-246)

Dr. Ammons testified that her point in having made that statement to Dr. Collins had been that Dr. Humphrey had misled her husband. (Tr. at 249-250)

- The Cleveland Clinic medical records indicate that Dr. Ammons had advised Dr. Collins that Dr. Humphrey showed no consideration or remorse, and would lie that he was on his way to her office when he was not. (Resp. Ex. 1.4 at 186)

Dr. Ammons testified that she had felt that Dr. Humphrey had shown no consideration, but cannot recall if the reference to “remorse” is an accurate quote. Further, Dr. Ammons testified that the statement that Dr. Humphrey would lie that he was on his way to her office is not an accurate quote. Dr. Ammons testified that she can only recall telling Dr. Collins about the episode with her husband. (Tr. at 250-251)

- The Cleveland Clinic medical records indicate that Dr. Ammons had told Dr. Collins that there had been an issue concerning Dr. Humphrey paying his co-pays at the time of service. (Resp. Ex. 1.4 at 186)

Dr. Ammons testified: “But the attitude—the thing that—about the payment was that he had asked me if he would have the same professional courtesy that he had had with Dr. Chahal \* \* \* which I was a bit taken by that. \* \* \* I was surprised that someone that presented in the circumstances he presented in the practice would have asked for that.” (Tr. at 252)

- The Cleveland Clinic medical records indicate that Dr. Ammons had told Dr. Collins that Dr. Humphrey had had an arrogant attitude, lacked remorse concerning the compressor theft, and felt it was not that bad. (Resp. Ex. 1.4 at 186)

Dr. Ammons testified that she does not recall saying that. (Tr. at 254-255)

- Dr. Ammons testified that she does not recall telling Dr. Collins that she would not attribute Dr. Humphrey’s thefts to drug effects. (Tr. at 259)

- Dr. Ammons did not recall telling Dr. Collins that she believed that Dr. Humphrey was a “con artist.” She indicated that she could have said that, but does not remember saying it. Dr. Ammons testified that, at the time she was treating Dr. Humphrey, she did not feel that he was a con artist. (Tr. at 261)
- Dr. Ammons testified that she does not recall telling Dr. Collins that Dr. Humphrey had a history of taking small items. (Tr. at 264-265)

### **Testimony of the Expert Witnesses**

#### *Testimony of Dr. Noffsinger*

78. Dr. Noffsinger testified that he had performed a forensic psychiatric evaluation of Dr. Humphrey. Dr. Noffsinger testified that there are two critical differences between a forensic evaluation and an evaluation for purposes of treatment:

One is that we try to look at as much information as possible, trying to leave no stone unturned, so looking at all the records that are available, and if they aren't available, I do ask for them. And then, secondly, it is to not take the subject at face value, and that's really the cardinal difference, because when doing an evaluation for the purpose of treatment, it makes sense to take the patient at face value because there's no reason for the patient to not be honest, because that would result in making an incorrect diagnosis and bad treatment. But in a forensic evaluation, when there's some kind of legal issue at stake, often the subjects—we don't call them patients because we don't treat them, but the subjects, sometimes a possible motive for them to not be truthful, and for that reason we don't take them at face value. We don't accept their self-report as being 100-percent reliable. We instead compare/contrast their self-report to the other information and the other documents. And so that's what I did in doing this forensic evaluation.

(Tr. at 35-37)

79. Dr. Noffsinger testified that, based upon his forensic psychiatric evaluation of Dr. Humphrey, he believes that Dr. Humphrey is not capable of practicing podiatric medicine and surgery according to acceptable and prevailing standards of care. Dr. Noffsinger further testified that Dr. Humphrey “has a number of personality traits that were operative during the offenses which would impair his judgment and his ability to act in the best interest of his patients.” (Tr. at 40)

Dr. Noffsinger testified that personality disorders and personality traits are very difficult to treat. (Tr. at 103) Dr. Noffsinger explained that:

- A person with a personality disorder does not recognize that the symptoms are a problem. The personality disorder causes problems for others, but the subjects themselves do not recognize their problem personality traits. (Tr. at 103-104)
- Because personality is formed in childhood, it tends to be an enduring pattern of behavior and is very difficult to change. (Tr. at 104)
- There is no medication available to treat personality disorder. (Tr. at 104)
- Counseling is not very effective at treating personality disorder and, if it is effective, it is very slow to become effective. (Tr. at 104)

80. Dr. Noffsinger testified that a personality disorder is a mental disorder but is not a mental illness. (Tr. at 104-105)

81. Dr. Noffsinger testified that Dr. Humphrey's personality disorder prevents him from practicing podiatric medicine within the standard of care because Dr. Humphrey's personality traits impair his judgment, his behavior, his perception of himself, and his ability to act in the best interests of his patients. Dr. Noffsinger further testified that he believes that Dr. Humphrey is "likely to continue to offend, and given this patient population is an especially vulnerable population, that it just wouldn't be safe to expose those patients to him with these personality traits." (Tr. at 105-106)

82. Dr. Noffsinger testified that he had also diagnosed Dr. Humphrey as having adult antisocial behavior. Dr. Noffsinger further testified that this "basically means committing criminal acts as an adult." Dr. Noffsinger noted that he considered the diagnosis of kleptomania, but rejected that diagnosis because Dr. Humphrey's behavior did not fit the criteria for kleptomania. Dr. Noffsinger testified that kleptomania is evidenced by a compulsion to steal, increasing tension prior to a theft that is relieved by the theft, and a feeling of relief following the theft. In addition, Dr. Noffsinger testified that a member of the items taken had substantial monetary value, which is not consistent with kleptomania. Finally, Dr. Humphrey had stated that he had taken items from Williams County Hospital to express his anger, which is not consistent with kleptomania. (Tr. at 91-92)

83. Dr. Noffsinger testified that he had also diagnosed Dr. Humphrey with malingering. Dr. Noffsinger further testified that malingering is the false production of symptoms or the exaggeration of valid symptoms. Dr. Noffsinger stated that he believes that Dr. Humphrey had produced "a scenario of psychosis caused by medication" as an attempt to explain his theft offenses. However, Dr. Noffsinger believes that Dr. Humphrey had chosen to commit those thefts for rational motives. (Tr. at 92-93)

Dr. Noffsinger testified that other evidence for malingering concerns Dr. Humphrey's theft of the compressor and other items in 2001. Dr. Humphrey had reported not being in control of himself or having no awareness or control over those actions. However, Dr. Noffsinger noted that Dr. Humphrey had been able to drive away from the hospital, and turn around with the purpose of returning the items. Dr. Noffsinger stated that that requires that one be in control of his mind and body. In addition, Dr. Noffsinger noted that Dr. Humphrey had described himself as almost a zombie, and there is no mental disorder that explains that. (Tr. at 93-94) Furthermore, Dr. Noffsinger testified:

That's what we see in people who are malingering. They concoct a story which is not consistent with a valid mental illness. So there is no valid mental illness that will impair you in this one specific area that makes you steal something that lets you function normally in other areas.

This report, then, of this dark period from June to December, 2003, he said that he was functioning at work and at home, yet only after the fact recognized that he was in a fog about his criminal activities during this time.

(Tr. at 94)

84. At hearing, Dr. Noffsinger testified concerning his reasons for rejecting medication-induced psychosis as a diagnosis:

- Dr. Noffsinger testified that medication-induced psychosis or mania is very rare. Over the past 20 years, Dr. Noffsinger has seen perhaps one or two people who had been taking high doses of powerful, prescription-strength steroids and developed steroid-induced psychosis, and one or two people who became manic from their antidepressant medication. Dr. Noffsinger testified that, if a person was suffering from medication-induced psychosis, "It would be very obvious to everyone who encountered that person." The person would be very confused, disorganized, and unable to carry out a purposeful action, and, if there was a component of mania, the person would be hyperactive, and his or her speech would be loud, very pressured, and the person might say inappropriate things. (Tr. at 98-100)

Dr. Noffsinger further testified that there were five separate offense dates during which Dr. Humphrey's conduct had supposedly been influenced by medication-induced psychosis: the 2001 theft from Williams County Hospital; the September 2003 theft of a trailer; the November 2003 theft of a backhoe; the January 2004 falsification; and the May 2004 trespass onto an impound lot. Moreover, Dr. Noffsinger testified, "If [Dr. Humphrey] was on different medications at these different points in time, he would have had to have medication-induced psychosis from different combinations of the medication occur at least five different times." (Tr. at 98)

- Dr. Noffsinger testified: “If [Dr. Humphrey] had a medication-induced psychosis, he might do a number of random things in a confused state or a manic state, but we have a pattern of behavior here, a pattern of multiple episodes of stealing items and lying about them. \* \* \* We have a pattern of consistent behaviors which indicates the real cause of it was a rational motive and simply his decision to commit the thefts or a rational means independent of any kind of medication effect.” (Tr. at 100-101)
- Dr. Noffsinger testified that Dr. Humphrey had told him that, by the time the first criminal offense took place in September 2003, he had been off the pseudoephedrine and steroids for one or two years, so they were not a factor. Dr. Noffsinger further testified that, in fall 2003, Dr. Humphrey had not been taking excessive dosages of Adderall, Strattera, or Klonopin. Moreover, Dr. Noffsinger testified that he has never seen a patient act in a psychotic manner because of a combination of those medications. Furthermore, Dr. Noffsinger testified:

[E]ven if the Adderall and Strattera were tending to overactivate him, the Klonopin would negate that, because the Klonopin is a tranquilizer, so it just doesn't add up. And, again, we have the documentation of his mental state by the police and psychiatrists that, to me, just don't support medication-induced psychosis.

We also have that, even when he stopped taking Adderall, he continued to offend. The Adderall was stopped early in January, '04, yet the falsification took place, I think, 16 days later. So if you take the Adderall out, if Adderall had been causing psychosis, you would assume that the psychosis would stop. If the psychosis was causing him to offend, then the offending would stop, but the offending continued, which again indicates it was due to his decision to offend.

(Tr. at 101-102)

85. Dr. Noffsinger testified that Dr. Collins had provided treatment to Dr. Humphrey. Dr. Noffsinger further testified that a treating psychiatrist should not agree to be an expert witness for a patient. First, if the treatment is ongoing it will disturb the treatment. Second, which Dr. Noffsinger testified is more important, is that treating physicians are biased toward their patients' interests; “they want their patients to do well.” Dr. Noffsinger testified that, accordingly, “they're really not able to be objective.” Furthermore, Dr. Noffsinger testified that providing expert witness services to a patient is “frowned on ethically.” Finally, Dr. Noffsinger testified: “The guidelines from the American Academy of Psychiatry and Law \* \* \* indicate that while it's not categorically unethical for a treating doctor to give an expert opinion, it should be avoided because of those problems.” (Tr. at 81-82)
86. During cross-examination, Dr. Noffsinger was asked whether he believes that a treating physician would not be truthful concerning his or her patient because of a bias or desire to

advocate for the patient. He replied:

That's exactly what I am saying[.] \* \* \* [T]hey unintentionally, because they want to do what's best for their patient, they collude with their patient in order to write an opinion. \* \* \*

[Collusion is] a psychological term. I don't mean collusion in a criminal sense, but they collude with the patient in doing what the patient wants, not necessarily what is in the patient's best interest or even what is honest, that they simply write the letter because the patient asked them to do it. Yes, it happens all the time.

I worked on a case last week where a treating psychiatrist wrote a letter for a police officer to the police department talking about how the man was safe to work and was only on medication A and B, when, in fact, he had—was taking other medications that the doctor didn't disclose, and, actually, gave a different diagnosis in the medical records compared to what he told the police department. It happens all the time.

(Tr. at 195-196)

When asked whether he believes that Dr. Collins had colluded with Dr. Humphrey to prepare report letters and Dr. Humphrey's favor, Dr. Noffsinger replied:

I think that, again, treating physicians, especially psychiatrists, are not able to give objective opinions. And, again, I don't mean the word collusion in the sense that they get together and plan some kind of criminal activity, but simply because they want what is in their patient's best interests, and, therefore, they are subjective and biased in their patient's best interest \* \* \*.

(Tr. at 198)

87. Dr. Noffsinger testified that he has several concerns with regard to Dr. Collins' December 4, 2006, affidavit and report. (Tr. at 114) Dr. Noffsinger testified:

- Although Dr. Collins is a highly respected, nationally known psychiatrist in the field of chemical dependency, he is not a forensic psychiatrist trained to do forensic evaluations. (Tr. at 115)
- Second, Dr. Collins had "involved himself in Dr. Humphrey's treatment" and should therefore abstain from forming expert opinions concerning Dr. Humphrey. (Tr. at 115)
- Third, in Dr. Collins' 2005 report, Dr. Collins had diagnosed Dr. Humphrey "on Axis II as having a personality disorder, antisocial, narcissistic, and passive/aggressive traits, the same diagnosis that I made." However, in his addendum report, Dr. Collins "seems to

- take that back” but does not adequately explain why he changed his mind concerning personality disorder. (Tr. at 115-116)
- Fourth, Dr. Noffsinger criticized Dr. Collins for having stated that Dr. Collins had spent more time on Dr. Humphrey’s case than any other reviewer. Dr. Noffsinger testified that Dr. Collins “has no idea how much time I spent working on records and reports. My report is 31 pages long and his is only a fraction of that.” (Tr. at 117)
  - Fifth, Dr. Noffsinger criticized Dr. Collins’ statement that Dr. Collins’ review had been completed objectively for diagnoses and treatment and not for advocacy. Dr. Noffsinger testified that Dr. Humphrey had been referred to Dr. Collins by Dr. Humphrey’s lawyer. Dr. Noffsinger further testified that, as stated previously, Dr. Collins had provided treatment to Dr. Humphrey, and that “treating doctors tend to want to advocate for their patients.” (Tr. at 117-118)
  - Sixth, Dr. Noffsinger testified that it appears that Dr. Collins had relied heavily on Dr. Humphrey’s self-reporting. Dr. Noffsinger stated that a common and critical error made by non-forensically trained psychiatrists is to believe what the subjects tell them. Dr. Noffsinger testified, “[I]t’s an important principle to not take the claimant at face value, but to look at the records for corroboration \* \* \*.” Dr. Noffsinger noted that Dr. Collins had done a very thorough review of the records and talked with some of the psychiatrists who treated Dr. Humphrey. Therefore he “had a good understanding of the facts.” Dr. Noffsinger added, “I just don’t understand how the facts add up to his conclusion.” Finally, Dr. Noffsinger testified: “it looks like he ignored a lot of facts, like the motive, the lying and other evidence, knowledge of wrongfulness. The records of the police officers indicate that Dr. Humphrey was not acting in a psychotic fashion during the offenses.” (Tr. at 118)
  - Finally, Dr. Noffsinger testified that he disagrees with Dr. Collins concerning the diagnosis of malingering. Dr. Noffsinger further testified that Dr. Collins’ 2006 report states that “‘Dr. Humphrey was a normal, law-abiding citizen.’ How does he know that? He is taking Dr. Humphrey at face value, his self-report.” (Tr. at 119)

88. With regard to Dr. Breggin’s opinions, Dr. Noffsinger testified:

I would just comment that it’s very rare for a medication—a combination of medications to result in mania or psychosis. It does happen, very rare. And Dr. Breggin, though, \* \* \* opines that it happened on multiple occasions with Dr. Humphrey. So I mean, what’s the likelihood that a rare event will happen in several different points in time caused by different medications? I think it’s very, very unlikely.

(Tr. at 85-86)

*Cross-Examination of Dr. Noffsinger*

89. Dr. Noffsinger testified that it is difficult to determine when Dr. Humphrey's problems with the personality disorder began. By the fall of 2001 the first known antisocial act took place. However, Dr. Noffsinger testified that Dr. Humphrey's self-report did not include "any kind of personality problems since childhood or his adolescence." (Tr. at 142) When asked what evidence he has that Dr. Humphrey had had a personality disorder prior to 2001, Dr. Noffsinger testified that "there's a lack of information about it [in] his teenage and his childhood years. [However, we] also have the fact that these antisocial acts don't tend to appear in a vacuum. Someone who has recurrent problems with criminal activity usually has personality problems earlier. I admit that there's a—a black hole there, because his self-report appeared to be self-serving." (Tr. at 142-144)

Dr. Noffsinger acknowledged that the DSM-IV states that a diagnosis of personality disorder requires that "the patient has a pattern that is stable and of long duration, and its onset can be traced back to at least adolescence or early adulthood." When asked to identify evidence that shows that Dr. Humphrey's disorder can be traced to adolescence or early adulthood, Dr. Noffsinger replied, "Again, as I mentioned before, his self-report to me seemed to be self-serving, and so I'm not surprised that he gave me a report that did not contain elements of that." When asked if he had contacted anyone to obtain additional information, Dr. Noffsinger testified that he had not, because Dr. Collins and the Cleveland Clinic had done an excellent job of gathering such information. (Tr. at 144-145) Moreover, Dr. Noffsinger testified,

Also, really, the issue here, at least in my mind, is not whether he meets the textbook definition of a personality disorder which requires \* \* \* evidence of back in childhood or teenage years versus personality traits, which don't require that. The major issue here is did he have a medication-induced psychosis which caused him to offend, not whether his offending was due to personality disorder or traits.

(Tr. at 145-146) Following that statement, the following exchange took place:

- Q. [By Dr. Irwin] But you've diagnosed him as [DSM-IV] 301.9. That's not the trait, is it?
- A. [By Dr. Noffsinger] Correct.
- Q. That's the actual disorder?
- A. Right.
- Q. And the disorder requires [a stable pattern traceable back to adolescence or early adulthood]?

A. Right.

Q. And you don't have that?

A. Let's assume for the sake of this discussion that we say personality traits.

Q. But that's not what you said in your report. You said personality disorder, 301.9. Are you changing your opinion now?

A. No.

Q. Okay.

A. I'm saying, if we assume that what you're saying is right, it doesn't matter, because personality traits or disorder, no matter what you call it, still is antisocial thinking and antisocial behavior, not medication-induced psychosis.

(Tr. at 146-147)

90. When asked how much of what Dr. Humphrey had told him he had believed, Dr. Noffsinger replied:

It depends on what the issue is. I believe that he's relatively truthful on benign issues, but on the critical issue such as the symptoms he was experiencing and his motive and what he did and said during the offenses, I don't believe him much, because it's a stark contrast between what he says was going on versus what is in the other records.

(Tr. at 157)

*Testimony of Dr. Breggin*

91. Dr. Breggin testified that he had interviewed Dr. Humphrey for approximately 6 hours in April 2005. At that time: "his mental status was basically normal. He was not psychotic. He was not manic. He was not hyper in any way, really. He didn't show any irritability or flight of ideas or any of the symptoms we associate with mania." Dr. Breggin testified that, "typical of people who have been through prolonged drug reactions, he had very poor memory for the period of time of the various allegations that he admitted to of theft \* \* \*." Dr. Breggin testified that he spent a lot of time with Dr. Humphrey attempting to reconstruct what had happened. (Tr. at 500-501)

Dr. Breggin testified that he and Dr. Humphrey "also worked on correlating what happened with this medication treatment." Dr. Breggin further testified that Dr. Humphrey had

brought “a rudimentary chart that showed a correlation between the medication and his becoming manic\* \* \*.” Dr. Breggin testified that he had helped Dr. Humphrey to reformulate the charts. (Tr. at 501)

Dr. Breggin testified with regard to Dr. Humphrey’s mental activity during the time he was committing the theft offenses that Dr. Humphrey displayed every category of symptoms of mania. Dr. Breggin further testified that he had discussed with Dr. Humphrey whether Dr. Humphrey could have had any motivation for the thefts. Dr. Breggin stated that Dr. Humphrey was not in financial trouble, although he had had some business failures. Dr. Breggin testified that, after trying to reconstruct and understand what had happened, “the only correlation we could come up with” was that Dr. Humphrey had “clearly” engaged in “an extreme carrying out of wild fantasies of having machinery and stashing machinery away out in the open around his home. It made no sense at all. Yet it made one sense very, very cogently, which was that it was a very typical manic-like reaction and, in addition, it correlated with the medications.” (Tr. at 501-503)

92. Dr. Breggin testified that, in his opinion, based upon his evaluation of Dr. Humphrey, Dr. Humphrey is capable of practicing podiatric medicine. Dr. Breggin further testified, “I would go to him myself.” (Tr. at 508-510)
93. Dr. Breggin testified that Dr. Humphrey suffered from a substance-induced mood disorder caused by medications that had been prescribed to him to treat ADHD. Dr. Breggin testified that Adderall and Strattera had been the primary culprits, as well as a one-time change in Dr. Humphrey’s ongoing treatment with Klonopin. Dr. Breggin stated that substance-induced mood disorder is “an official diagnosis in the diagnostic manual \* \* \*.” Dr. Breggin further testified that is the only psychiatric diagnosis that he could ascertain. Moreover, Dr. Breggin testified that Dr. Humphrey no longer suffers from anxiety disorder. (Tr. at 510-511)

Dr. Breggin testified that the DSM-IV states that a substance-induced mood disorder is an “overriding diagnosis.” Dr. Breggin further testified that another mental disorder could be made only after Dr. Humphrey had stopped taking the offending substances. Moreover, Dr. Breggin testified

[Y]ou can’t diagnose somebody as having ADHD or antisocial personality disorder or kleptomania or any other subcategory when there’s an overriding diagnosis of—of a substance-induced mood disorder. \* \* \*

\* \* \* [O]nce you’re in the middle of a drug-induced mania, all of your behavior is governed and controlled by that. Indeed, most normal behavior is modified or obliterated, depending on, you know, the way the illness is unfolding. So it’s a dominating illness.

(Tr. at 514)

94. Dr. Breggin testified that he disagrees with all of Dr. Noffsinger's diagnoses. Dr. Breggin further testified:

- Dr. Humphrey been under the influence of multiple psychiatric drugs, had been taking larger than recommended doses of Strattera and Adderall, and was temporarily taken off Klonopin at one point, "producing sort of a perfect storm of pharmacological effects for mania \* \* \*." Dr. Humphrey then began showing signs of mania and behaving in an out-of-character fashion, doing things that were "bizarrely out of the normal range of behavior \* \* \*." Dr. Breggin testified, "There's no way in that storm to find out whether there is a generalized anxiety disorder." (Tr. at 517-518)
- Dr. Breggin testified that the diagnosis of Personality Disorder, Not Otherwise Specified, with Antisocial, Narcissistic, and Passive/Aggressive Traits, is "the kind of thing a doctor does, frankly, when they're really angry, usually." Dr. Breggin testified that there is no evidence that Dr. Humphrey had suffered from a personality disorder since childhood or young adulthood, nor prior to taking psychiatric drugs. Moreover, Dr. Breggin testified that Dr. Humphrey's self-centered acts were "the hallmark of mania." His impulsively antisocial acts, such as stealing, were also caused by mania. (Tr. at 519-520)
- Dr. Breggin testified that Adult Antisocial Behavior is not an accepted diagnosis. It is "one of the back of the book diagnoses." That means that it is a research and/or speculative diagnosis that has not yet "entered into the official diagnostic nomenclature." Dr. Breggin further testified that he does not believe that Adult Antisocial Behavior is supported by Dr. Humphrey's record. People who display such behavior "almost always display antisocial behavior since childhood when they had a diagnosis of conduct disorder." Dr. Breggin testified that Dr. Humphrey had no such history, and that Dr. Humphrey is "very embarrassed and contrite about" his troublesome behavior. (Tr. at 520-522)
- Dr. Breggin testified that Malingering is a diagnosis that physicians rarely make. Dr. Breggin believes that Dr. Humphrey, "to a fault, was being honest with me in our interviews." Dr. Breggin further testified that Dr. Humphrey disclosed conduct for which he was never charged, such as an incident when he drove home in a fuel truck that did not belong to him. Moreover, Dr. Breggin testified that Dr. Humphrey "did nothing to indicate to me anything other than remorse and shame as he went through the details and helped me with great effort elucidate all of the things that he had done[.] \* \* \* I would say this is a man who is scrupulously honest, not a man who is a liar or a cheat, which is what malingering means, which is a conscious liar." (Tr. at 522-523)

Dr. Breggin further testified that Dr. Humphrey had made no attempt to use mental illness as a defense in his criminal case, which he believes is further evidence that Dr. Humphrey is not a malingerer. (Tr. at 553-554)

When asked about Dr. Humphrey having been untruthful to police officers, Dr. Breggin attributed this to the manic state that had afflicted Dr. Humphrey at the time. (Tr. at 523-525)

95. Dr. Breggin testified that, at the time Dr. Humphrey received Strattera, it had been on the market only for a short time. Dr. Breggin testified that the manufacturer had originally marketed Strattera as a non-stimulant drug to treat ADHD. However, Dr. Breggin further testified that the Physicians' Desk Reference [PDR] recently began carrying a new warning label for Strattera that makes it "the first stimulant with a specific warning about causing suicidal ideation in children and adolescents, and while these are children and adolescents, it still tells you about the potency of the drug." Moreover, Dr. Breggin testified that the PDR also states that symptoms that have been reported with Strattera include "[a]nxiety, agitation, panic attacks, insomnia, irritability, hostility, aggressiveness,\* \* \* and mania." (Tr. at 525-530)
96. Dr. Breggin disagreed with Dr. Noffsinger's opinion that it would be too rare for an individual to have repeated occurrences of a substance-induced mania or psychosis. Dr. Breggin testified that such an opinion "makes no sense at all because we're talking about one event, a prolonged, manic episode." Dr. Breggin provided examples of similar cases with which he has recently dealt. (Tr. at 544-547)
97. Dr. Breggin testified as follows concerning Dr. Collins serving as both a treating physician and as an expert witness for Dr. Humphrey:

Well, I have vast experience in this area \* \* \* and I can tell you with certainty that the testimony considered by courts and by attorneys and juries to be the most potentially ethical and unbiased are those of the treating physicians. I wish that in more of the cases I had I was the treating physician. In some I have been, because then you come in not being paid to go to court, as I'm being paid here or Dr. Noffsinger is being paid by one side or the other or by conflicting parties, you're coming in as the doctor who has nothing to do with the legal ramifications and just saw this individual as your patient. So without a doubt, and I've seen this again and again, the most convincing, the most honorable and ethically untainted, the least self-interested testimony comes from treating physicians, unquestionably. And it's nothing at all about anything ethical, in fact, in any of the ethics of the American Psychiatric Association or the AMA, both of which I've read.

(Tr. at 549-550)

*Cross-Examination of Dr. Breggin*

98. During cross-examination, Dr. Breggin was questioned concerning two cases in which his expert testimony had been rejected. In one case, a magistrate had recommended excluding Dr. Breggin's testimony, stating that his opinions are not based upon good science.

Dr. Breggin responded that that case involved a Halcion suicide, and that he had warned about the side effects of that drug. Dr. Breggin further testified that he had been ahead of his time on that issue, and that Halcion has since been removed from the market in Great Britain and in a number of other countries, and carries with it warning labels about the dangers of its side effects. (Tr. at 556-559)

In another case, a judge found that Dr. Breggin was not a credible witness, and stated that he was, among other things, a fraud or close to a fraud, that he made outrageous statements, that he is untrained, and is not a member of a hospital staff. Dr. Breggin disputed that court's opinion, and stated that he has "the best training in the world," including an undergraduate degree from Harvard University and an appointment to the National Institute of Mental Health. Dr. Breggin further testified that he has appeared as a witness in court "probably 100 or more times by now \* \* \*." Moreover, Dr. Breggin testified that, in the year following that court's opinion, the director's office of the National Institutes of Health had asked him to be "the expert on adverse drug effects in children at the National Consensus Conference on Attention Deficit Disorder, Its Diagnosis and Treatment, and I have published since that case peer-reviewed articles on the—that have been accepted in major journals on the very subject I was testifying to." (Tr. at 561-564)

99. Dr. Breggin testified concerning the International Center for the Study of Psychiatry and Psychology that it is "a network and a consortium of volunteer physicians," all of whom are unpaid. Dr. Breggin further testified that the center occasionally hires an assistant. He stated that it is not believed that it has any full-time employees at present. (Tr. at 569-571)

Dr. Breggin testified that the center's annual meeting usually has 200 or 300 attendees. Dr. Breggin further testified that the center's journal, *Ethical Human Psychology and Psychiatry*, is a peer-reviewed journal with about 40 volunteer professionals on the staff. Moreover, Dr. Breggin testified that it is published by Springer Publishing Company, which he characterized as "one of the better medical publishers in the world\* \* \*." (Tr. at 571-572)

100. Dr. Breggin testified that he does not have training in forensic psychiatry, but that he had belonged to a forensic psychiatry organization for a time. (Tr. at 577-579)

#### *Testimony of Dr. Collins*

101. Dr. Collins testified that he had examined and treated Dr. Humphrey. Dr. Collins further testified that he and his staff "undertook a thorough and comprehensive assessment of Dr. Humphrey" that included psychiatric interviews, and interviews with his employer, his spouse, and his previous treating physicians. In addition, Dr. Collins testified that he and his staff "undertook additional psychological testing which included an MMPI-2 and neuropsychological testing to assess whether there was any neurocognitive or significant psychosis kind of problem, a neurosis kind of problem, to identify why this had happened." (Tr. at 633)

Dr. Collins testified that he and his staff “amassed a great deal of information.” Dr. Collins further testified that he had spent weeks working on Dr. Humphrey’s case, and he had assigned several members of his staff to research the case and gather information. Moreover, Dr. Collins testified that Dr. Humphrey had been an inpatient or resident patient at the Cleveland Clinic for about three weeks. (Tr. at 634)

102. With regard to his February 24, 2005, report, Dr. Collins testified that there were two groups of offenses. The first was the 2001 theft of the compressor, and the second group of offenses included the thefts that began in fall 2003. Dr. Collins testified that, at the time he had evaluated Dr. Humphrey, it had been clear to him that the second batch of offenses had likely resulted from Dr. Humphrey’s taking “taking these amphetamines and Strattera, which were powerful stimulant drugs\* \* \*.” Dr. Collins further testified that those medications had probably caused “a drug-induced psychosis of manic, hyperactive type which greatly altered his judgment and thinking and probably was a major factor in what we observed as these bizarre incidents.” Dr. Collins added that Dr. Humphrey’s offenses “didn’t make any sense and were a radical departure from his personality base line.” (Tr. at 635-636)

Dr. Collins further testified that, prior to receiving a copy of Dr. Breggin’s report, he had not been made aware that Dr. Humphrey had been taking pseudoephedrine and anabolic steroids at the time of his theft of the compressor. Dr. Collins testified, “it’s well known that these drugs, too, can alter personality and produce manic, hyperactive-type psychosis, and it appears, at least from Dr. Breggin’s information, that Dr. Humphrey was taking these stimulant-type drugs, which, in my opinion, could very well have precipitated and caused the manic, hyperactive-type behavior that led to the theft of the compressor.” (Tr. at 636-637)

Moreover, Dr. Collins testified that, with that new information, “there was a consistent theme here that this bizarre behavior that he was exhibiting\* \* \* was in every case induced by the stimulant medications that he was taking.” (Tr. at 637)

Furthermore, Dr. Collins testified that a review of the findings of previous treating physicians as well as descriptions by Dr. Humphrey’s wife reveal that Dr. Humphrey had been exhibiting manic behavior. Dr. Collins further testified that Dr. Humphrey had never been manic before and, since discontinuing those medications, he has not become manic. In addition, Dr. Collins testified that a patient cannot be diagnosed with a personality disorder as long as he or she is on mood-altering medications, and Dr. Humphrey had been on such medications when the offenses occurred. Dr. Collins testified that he therefore believes that “the only explanation that—in [Dr. Collins’s] view that holds up well when you look at all the factors combined is that he was mentally ill as a result of the medications and substances that he was taking.” (Tr. at 637-639)

Finally, Dr. Collins testified that, in his opinion based upon a reasonable degree of medical certainty, Dr. Humphrey is fit to practice podiatric medicine. Dr. Collins testified that

there really were no other departures from a normal, healthy, functioning personality prior to any of this, \* \* \* and since there’s been no departure from

his normal healthy personality base lines since he went off of these medications, and since there really was no evidence that his practice had been adversely affected by any other form of illness or personality trait, I have no problem saying that in my opinion he's fit to practice medicine according to the usual and customary standards.

(Tr. at 640-641)

103. With regard to Dr. Noffsinger's opinion that Dr. Humphrey's personality disorder renders him incapable of practicing podiatric medicine, Dr. Collins testified that he disagrees very much with that conclusion. Dr. Collins further testified, "In my opinion, the personality dimensions of Dr. Humphrey's situation are not of a severity or magnitude or a type that would interfere with his practice of medicine at all \* \* \*." (Tr. at 646-647)

With regard to Dr. Noffsinger's opinion that there are no restrictions or conditions that would allow Dr. Humphrey to continue to practice according to acceptable standards, Dr. Collins testified that he "[a]bsolutely" disagrees. Dr. Collins further testified:

[T]o me, the obvious cause for Dr. Humphrey's situation was a drug-induced form of mental illness, a drug-induced psychosis, and there really is no other significant degree of mental illness or defect that is present. No one has brought anything like that to my attention, and careful review of his history doesn't reflect any other particular form of mental illness that's severe enough to indicate that he wouldn't be able to practice medicine.

\* \* \*

So, in my opinion, he can practice medicine. Now that the medications are removed and gone and we have a better understanding what made him ill in the first place, I don't really think that there's going to be any problem with his returning to practice medicine, if allowed.

(Tr. at 647-648)

104. Dr. Collins denied that his providing expert witness testimony for Dr. Humphrey created an ethical concern. Dr. Collins testified:

[F]or one thing, my treatment, quote/unquote, with Dr. Humphrey was evaluative, and it was really in a forensic context to begin with. It was really, you know, following Dr. Humphrey's conviction for these offenses, and there really wasn't a significant amount of treatment involved at all. It was really more a matter of finding out what was the causation of Dr. Humphrey's problem. So it really wasn't a treatment relationship per se to begin with, and there's not been any treatment relationship with Dr. Humphrey ever since that evaluative period. So I feel, if anything, I'm probably in the best possible

position to opine on the matter, because I spent more time on this case than any of the other reviewers did by far.

(Tr. at 649-650)

105. Dr. Collins testified that he disagrees with Dr. Noffsinger's diagnosis that Dr. Humphrey was malingering. Dr. Collins testified that malingering tends to be a lifetime pattern. Dr. Collins further testified that there is "no evidence of classical malingering or feigning illness for any particular gain \* \* \*." Dr. Collins stated that Dr. Humphrey had gone through his trial and conviction and never alleged that he had been ill. Dr. Collins further stated that he does not believe that Dr. Humphrey had known that he was ill. Moreover, Dr. Collins testified that Dr. Humphrey "had every opportunity, in fact, every incentive to feign some type of illness at his trial, and even to plead guilty by reason of insanity, but he didn't do it. (Tr. at 653-654)
106. Dr. Collins testified that, if Dr. Ammons retracted some of the statements that were included in the Cleveland Clinic records, it would change his opinion concerning Dr. Humphrey's diagnoses. Specifically, if Dr. Ammons retracted her statement that she had felt that Dr. Humphrey is antisocial, and a con artist, it would change the Axis II diagnosis he rendered in February 2005 "[t]o the extent that I relied on her report to that effect with regard to that specific aspect of the diagnostic formulation \* \* \*." Dr. Collins further testified that he had not considered the statements of Dr. Ammons or Dr. Staneluis "to be the driving influence here" and that he had relied upon other information as well. Nevertheless, Dr. Collins further testified that he *had* relied heavily upon the statements of Dr. Ammons and Dr. Staneluis in formulating his impression of personality disorder. (Tr. at 673-682)

*Cross-examination of Dr. Collins*

107. Dr. Collins testified that, among all of the sources of information, Dr. Breggin had been the only one to mention Dr. Humphrey's use of pseudoephedrine and anabolic steroids. Dr. Collins further testified that that information had been self-reported by Dr. Humphrey. When asked if, on the word of Dr. Humphrey, Dr. Collins had completely changed his opinion, Dr. Collins replied, "I wouldn't say completely, but it did explain the one piece that was unexplainable that we really couldn't figure out, which related to the first incident." (Tr. at 657-658)
108. Dr. Collins testified concerning his original diagnosis of personality disorder. Dr. Collins testified that everyone exhibits some traits of personality disorder. Dr. Collins further testified that there had been little evidence of major personality dysfunction prior to Dr. Humphrey's use of medication, and that "these characteristics were somewhat moderate at best." Moreover, Dr. Collins testified that several physicians had been involved in Dr. Humphrey's case, "and none of them could really figure out why this happened \* \* \*." Dr. Collins believes that personality malfunction or disorder had been a "best guess" to explain Dr. Humphrey's aberrant behavior. However, Dr. Collins testified

that careful analysis reveals that the criteria to support that diagnosis are actually very weak, but in the absence of another etiology to explain Dr. Humphrey's behavior, "they had to pretty much fall back on that as an explanation." (Tr. at 658-659)

When asked if it was possible that Dr. Humphrey had just decided to become a thief, Dr. Collins testified: "No. I think that was very unlikely, because these kinds of traits and characteristics are generally things that people exhibit all through life. People just don't make that kind of change to a criminal kind of activity, especially to this bizarre degree, doing things that were very irrational and strange \* \* \*." (Tr. at 660)

109. Dr. Collins testified that the patterns of behavior that give rise to a diagnosis of personality disorder have to be long-term. When asked whether, at the time of his 2005 report, he had felt that Dr. Humphrey had had long-term antisocial, narcissistic, passive/aggressive traits in his personality, Dr. Collins replied that he had had to rely to a large degree on the description that Dr. Ammons had provided. Further, Dr. Collins testified, "She had worked with him for some time, and this was her opinion, and I didn't have a better explanation for the reasoning for the original theft of the compressor at the time." (Tr. at 665-666)
110. Dr. Collins testified that he has no training in forensic psychiatry. (Tr. at 669)

### **Testimony of Dr. Humphrey**

111. Dr. Humphrey acknowledged that, in October 2001, he had been shown a surveillance videotape of the compressor theft incident and denied that it was he on the videotape. Dr. Humphrey further testified: "The video was pretty poor quality, and I should add—and you couldn't tell and he couldn't tell whether it was me or not, and I will have to admit that I denied that it was me at the time. The very next day I admitted it was me." When asked why he changed his mind and admitted committing the theft, Dr. Humphrey testified, "Because I realized that I didn't want to live behind that lie." (Tr. at 286-289)
112. Dr. Humphrey testified that he had been taking androstenedione and androstenediol to try to help his body recover from the work he had been doing renovating his old office building. Dr. Humphrey further testified that he was also taking vitamins and protein supplements at that time. (Tr. at 404-405)
113. Dr. Humphrey testified that, beginning around June 2003 and lasting until May 2004, he had experienced a "dark period." Dr. Humphrey testified that the "dark period" had entailed "a period of lack of broadened thinking, a lack of feeling, particularly of fear and anxiety." Dr. Humphrey further described how he had felt during this time:

I varied from moment to moment from severe depression to severe anxiety. My thoughts would become racy. I was becoming irascible. I was not sleeping well at all, often staying up all night. I had a lot of energy one minute, a lot of creativity one minute, and then the next minute I would be lost of most of my energy. My focus was incredibly heightened, I would have to

say. I could see point A and I could see point B. I could not see the consequences of getting from point A to point B, but I could definitely tell how to get from this point to that point, and that's about all I could see when things really, really peaked during this period.

(Tr. at 371-372) Dr. Humphrey further testified that his practice had not gone very well during this time:

I lost three very valuable people who had been with me in my office for a good, long period of time as employees \* \* \*. I was making professional judgments about patients in a way that I had not made before. I was taking on surgeries. Though I had been trained to do them, I had never previously felt comfortable doing them. I would usually pass these cases on to a doctor out of Toledo. We would operate on those people together at St. Vincent's, which is why I had any privileges there, and as a result of three of those cases, in my opinion, lawsuits were created against me. So I would have to say that this was not a good period for me professionally.

(Tr. at 372-373) When asked if he knew why he had lost employees during that time, Dr. Humphrey testified that he could not say. He further testified:

I mean, no one came to me and said, Dr. Humphrey, you have a personality problem any more that I can just not deal with. No one ever said that. I just know that people began mysteriously leaving my office without much of an explanation.

(Tr. at 373) Moreover, Dr. Humphrey testified that, "[a]s a general rule," he did not experience a lot of employee turnover. (Tr. at 355)

114. With regard to his contact with the police officer on January 24, 2004, Dr. Humphrey testified that he does not believe that he had told the police officer that his name was Larry Johnson or that he was there to bird watch. He believes that he had instead told the landowner that his name was Larry Johnson and that he was there to bird watch. He further believes that the landowner had told the police officer about his presence. Moreover, Dr. Humphrey testified "I think the implication was made between myself and the sheriff deputy that I was this Larry Johnson without him actually asking that." However, Dr. Humphrey further testified that he is not certain about that, and that if the police officer had asked him, he probably would have told the police officer that he was Larry Johnson. (Tr. at 309-311)

Dr. Humphrey testified that he cannot recall if the police officer had asked him for identification, but that it is possible. (Tr. at 311)

115. Dr. Humphrey related the January 24, 2004, incident to a medication-induced psychosis. Dr. Humphrey testified that, prior to going back to the quarry to retrieve his truck, he had

informed his criminal attorney that the truck was on the quarry property, and his attorney told him “that it would be great if we could get the truck off the property.” Dr. Humphrey stated:

[I]t took no more than a suggestion such as that to create those points that I’m talking about, Point A and Point B without any consideration for the consequences for me to go and do those foolish, highly focused behaviors. And the thefts were, in my opinion, the same kind of behavior where I would see something, I would get focused on it and not think of anything else, not think of the security cameras that would be present in the building at the hospital, for example. My best friend installed those cameras. I was a staff doctor at the hospital. I knew those cameras were there, but in my case, taking these medications, when I was taking them, I was so incredibly focused I could not think about the cameras. I could not think about the consequences of going out and getting this truck. I could only think about it was something that needed somehow to get done, Point A to Point B.

(Tr. at 384 -386)

When asked why he had lied to people, Dr. Humphrey testified:

I believe that somehow I was convinced that either I didn’t do something, didn’t want—convinced myself, as easily as I was convinced that something needed to get done, that I wasn’t involved when I really was, and I think—I really can’t explain the lying very well except to say that it was extremely wrong. It was very obvious that my vehicle had been involved in the crash, the final theft. It was very apparent to everybody, the detective, prosecutor. It should have been apparent to me, but it wasn’t.

(Tr. at 386)

116. Dr. Humphrey testified that, at the time of the offenses that gave rise the indictment, he had “[n]ot entirely realized” what he had been doing. When asked what he had meant by “not entirely,” Dr. Humphrey replied:

I think there was some level of understanding at various times. I think—and, again, this is in retrospect. This is looking from where I am now, looking back at that situation. I think there was some degree of appreciation for what I was doing and the fact that it was wrong, and I can’t say whether that was one hour of the day or five hours of the day, but it was a—it was a level of understanding that what I had done was wrong, and perhaps even an understanding of exactly and precisely how I did things to get those things done, but I don’t think that was the majority of the day or of this period of time.

(Tr. at 313-314) When asked if that meant that he was fading in and out of knowing what he had been doing, Dr. Humphrey replied, "I would have to say that is a fairly accurate characterization." (Tr. at 314)

When asked if he had suffered temporary psychosis only while committing the felony offenses, Dr. Humphrey replied that he does not believe so. Dr. Humphrey testified:

I think that the psychosis was occurring throughout this entire period. It did not, as Dr. Noffsinger stated, become specific to the stealing. I was going to auctions spending \$10,000, with my wife up in arms trying to get me to stop, and I would not; buying items that I eventually dumped out in a dump truck on that field, not knowing whether it was stolen or not.

I had never been sued medically or civilly through this period of time. During the same period of time and that behavior during that period of time attributed to six different lawsuits against me. My marriage became troubled. I lost three important employees from my office. It was far from just being specific to stealing, though I think that probably was the most dominant feature. That was a revealing feature.

(Tr. at 315)

117. Dr. Humphrey presented three graphic charts that he testified he had prepared immediately after being released from jail in September 2004. Dr. Humphrey testified that he had prepared the graphs in order to show a correlation between the dosages of medication that he had been taking and the offenses that he had committed. The y-axes of the charts are labeled Medication Dosage, and the x-axes of the charts are labeled Dateline. A series of lines on the chart are intended to show the dosage of each medication that he had been taking during this time period, and the color of each line depends on the medication or type of medication. Along the Dateline axes Dr. Humphrey placed markings corresponding to the dates of the various offenses. The first chart covers the time period of from November 1 through December 1, 2001; the second chart covers the period of from November 1, 2002, through about June 1, 2004. The third chart covers approximately the same time period as the second. (Resp. Ex. 2.9; Tr. at 366)

Dr. Humphrey testified that he had used police records, newspaper accounts, pharmacy records, and physicians' treatment records to generate those charts. (Tr. at 366-367)

118. Dr. Humphrey testified that, since he has stopped taking any medications, he has not committed any further violations of law. Dr. Humphrey further testified that he is now able to think logically and consider the consequences of what he says and does. Moreover, Dr. Humphrey said that, previously, he would not have been able to testify at the hearing in a logical and organized fashion. (Tr. at 387-388)

119. When asked why he had left the Cleveland Clinic on December 8, 2004, Dr. Humphrey replied:

Primarily because the last time I met with Dr. Collins he informed me that there were some things that were said about me, specifically that I was a drug addict, that I had been a drug addict all my life, that Rusty Brunicardi, one of the most upstanding men in Bryan, the CEO of the hospital, had given me those drugs, that—there were just a number of things that were not true that were being said about me, and I could tell—I could tell at the time that it was impacting the way Dr. Collins was beginning to interview me.

\* \* \*

The last time I met with him, I remember that there was a—his assistant sitting next to him. He was asking me questions and they were trying to talk me into—they were trying to get me to admit to the things that this person had told them about me, the lies, and that had never happened before. And I asked where this information came from, and he said that he had interviewed one of the people that had treated me before.

(Tr. at 392-393)

Dr. Humphrey testified that, even though he had left the Cleveland Clinic in December 2004, he had kept his appointments in January 2005 to have the neuropsychological and MMPI-2 testing done. (Tr. at 394)

120. Dr. Humphrey testified that, after he left the Cleveland Clinic, he had contacted Dr. Breggin to obtain “a second opinion” and to review all of the information that the Cleveland Clinic was reviewing. (Tr. at 393)

### **Additional Information**

#### *Testimony of Susan Polasek*

121. Susan K. Polasek testified that she had worked for Dr. Humphrey from 1999 through early 2001. Ms. Polasek testified that she had “[a]nswered phones and scheduled appointments and sorted mail, filed, cleaned rooms, get patients ready, make a—schedule surgeries, history and physicals, copying, pretty much whatever he needed done.” (Tr. at 584-587)

Ms. Polasek testified that for the first 1 1/2 years she had enjoyed working for Dr. Humphrey. She further testified that he was a good employer, friendly, personable, would eat lunch with her and the other employees and got to know them and their families. He never became upset when she made a mistake, and never treated her condescendingly. However, Ms. Polasek testified that that had all changed around the fall of 2000. Dr. Humphrey became more quiet and kept to himself. He would not eat lunch with the

employees and simply stayed in his office. He remained cordial but became standoffish and disinterested in the employees. Finally, Ms. Polasek became upset about something that Dr. Humphrey had said, and she quit. (Tr. at 587-591)

Ms. Polasek testified that, after she left Dr. Humphrey's employ, she had continued to see Dr. Humphrey on occasion. Ms. Polasek further testified that her husband, Benjamin Polasek, was friends with Dr. Humphrey and that her husband had helped Dr. Humphrey renovate a new office building that he had purchased. Ms. Polasek noted that Dr. Humphrey had seemed "very stressed." (Tr. at 591-592)

Ms. Polasek testified that, after Dr. Humphrey had been released from prison, she and her husband had continued to see Dr. Humphrey, and that he had helped build their house. She further testified that Dr. Humphrey seems more the way he had seemed previously when she started working for him, although she is aware that he is still under considerable stress. (Tr. at 593-594)

*Testimony of Benjamin Polasek*

122. Benjamin Polasek testified that he had gotten to know Dr. Humphrey after his wife, Susan Polasek, went to work for Dr. Humphrey. A social relationship eventually developed between their two families. (Tr. at 610-614)

Mr. Polasek further testified that, around 2001, Dr. Humphrey purchased a building and, knowing that Mr. Polasek had had extensive experience with rental properties, had asked him for assistance prior to purchasing the building. Mr. Polasek testified that he had assisted Dr. Humphrey with renovating the building after Dr. Humphrey purchased it, and spent about five days per week with Dr. Humphrey doing that. Mr. Polasek further testified that, during this time, Dr. Humphrey had seemed quieter and a bit short tempered, which Mr. Polasek attributed to stress. (Tr. at 614-616)

Mr. Polasek testified that, in late 2003, Dr. Humphrey appeared to become "more secluded" and that he and Dr. Humphrey did not talk as often. (Tr. at 616-617)

123. Mr. Polasek testified that, after he had learned about the criminal offenses committed by Dr. Humphrey, he had been surprised "because was very hard for [Mr. Polasek] to believe that Steve would have done the things he was accused of doing." Mr. Polasek testified that Dr. Humphrey had never done anything to make him believe that Dr. Humphrey was dishonest, and that to his knowledge Dr. Humphrey had never engaged in any bizarre or "crazy" behavior. However, Mr. Polasek testified that Dr. Humphrey had made some business decisions that made Mr. Polasek wonder if Dr. Humphrey had been thinking clearly. (Tr. at 620, 622-623)

*Testimony of Barbara J. Savage*

124. Barbara J. Savage testified that she had begun working for Dr. Humphrey in 2000, and had assisted with office work a few days a week on a part-time basis. Ms. Savage testified that, previously, she had been the medical records director at Hicksville Hospital for 30 years. She continued working for Dr. Humphrey until 2003, when he ceased practicing. (Tr. at 596-598)

Ms. Savage testified that during the time that she had worked for Dr. Humphrey she had not observed a change in his personality. (Tr. at 598-599)

When asked if she had ever considered Dr. Humphrey to be dishonest, the Savage testified that she had believed the opposite. She testified that Dr. Humphrey took a great deal of time with his patients, no matter who it was. (Tr. at 600)

*Testimony of Mary Phillips Weaver Snyder*

125. Mary Phillips Weaver Snyder testified glowingly of Dr. Humphrey as a physician and as a friend. She testified that Dr. Humphrey had always spent a lot of time with her when she saw him professionally, and that he was very concerned that she understood everything and answered all of her questions. Ms. Snyder further testified that she has never seen Dr. Humphrey behave in a dishonest way. (Tr. at 601-609)

*Additional Testimony of Dr. Humphrey*

126. Dr. Humphrey testified that, at the time of the Medical Board hearing, he had approximately nine months remaining during which he would be subject to community control. (Tr. at 321)

127. Dr. Humphrey testified that, up until the time of the theft of the compressor in 2001, when he was 41 years old, he had never been in trouble with the law, except for five speeding tickets. (Tr. at 353)

128. Dr. Humphrey testified that, prior to the events that began on October 2001, he had never had a civil lawsuit filed against him for either professional or nonprofessional reasons, nor had he ever been threatened with a civil lawsuit. (Tr. at 354)

129. When asked what he is doing presently with his life, Dr. Humphrey testified:

I am working. I am working at supporting my kids. I'm working at paying back restitution, trying to uphold all the responsibilities to my probation. I work with a nonprofit organization out in Toledo, and trying to stay healthy. I talk with my family, my son, my stepdaughter, even my ex-wife on occasion. I talk to my dad at least once a week, and there are a number of social workers within the Urban Knights, where I'm working at, that are qualified to help

offenders—ex-offenders that have been in prison for years and years, once they get out, to become productive citizens again. I speak with those people on my own and I find that quite helpful, as well.

(Tr. at 395-396)

130. Dr. Humphrey testified that he believes that he is capable of practicing podiatric medicine and surgery in accordance with acceptable standards. Dr. Humphrey further testified that he would be willing to comply with any psychiatric or psychological therapy that may be required as long as the therapy does not involve stimulants or similar medications.

(Tr. at 398-399)

### FINDINGS OF FACT

1. On or about April 26, 2004, in the Court of Common Pleas of Williams County, Ohio, in Case No. 04 CR 001, Stephen Henry Humphrey, D.P.M., pleaded guilty to and, by Journal Entry filed May 3, 2004, was found guilty of, the felony counts listed below. Subsequently, on or about June 2, 2004, Dr. Humphrey was sentenced as shown below, with sentences of incarceration to run concurrently:

Count	Offense and Degree	In Violation of	Sentence
I	Grand Theft (F-4)	R.C. 2913.02(A)(1)	18 months
II	Vandalism (F-4)	R.C. 2909.05(B)(1)(a)	18 months
III	Theft (F-5)	R.C. 2913.02(A)(1)	12 months
IV	Theft (F-5)	R.C. 2913.02(A)(1)	12 months
V	Receiving Stolen Property (F-5)	R.C. 2913.51(A)	12 months
VI	Receiving Stolen Property (F-4)	R.C. 2913.51(A)	18 months
VII	Receiving Stolen Property (F-5)	R.C. 2913.51(A)	12 months

2. On September 15, 2004, the Williams County Common Pleas Court granted Dr. Humphrey's motion for judicial release, released Dr. Humphrey from incarceration, and placed him on community control for three years. Dr. Humphrey was ordered to comply with all conditions of community control or risk being returned to prison to complete his sentence.
3. By letter dated January 18, 2006, Stephen G. Noffsinger, M.D., notified the Board that he had determined with reasonable medical certainty that Dr. Humphrey is currently incapable of practicing podiatric medicine according to acceptable and prevailing standards of care,

due to Dr. Humphrey's Personality Disorder Not Otherwise Specified (with antisocial, narcissistic, and passive/aggressive traits) and Adult Antisocial Behavior. Dr. Noffsinger noted that Dr. Humphrey's personality disorder results in serious mental symptoms that render Dr. Humphrey incapable of practicing medicine, as it substantially impairs his perception of himself and others, as well as his judgment, behavior, and ability to carry out his fiduciary duty toward his patients. Further, Dr. Noffsinger determined that Dr. Humphrey's Personality Disorder Not Otherwise Specified and Adult Antisocial Behavior do not constitute a mental illness, but do constitute a mental disorder, and are unlikely to respond to treatment. In addition, Dr. Noffsinger opined with reasonable medical certainty that there are no restrictions or conditions that could be placed on Dr. Humphrey's practice that would allow him to continue to practice podiatric medicine according to acceptable and prevailing standards of care.

Dr. Noffsinger further determined with reasonable medical certainty that Dr. Humphrey currently has the additional diagnoses of Generalized Anxiety Disorder and Malingering. Dr. Noffsinger also opined with reasonable medical certainty that Dr. Humphrey's medications did not cause him to commit criminal acts for which he was convicted, as set forth in Findings of Fact 1, above.

4. The hearing record contains the formal written opinions of three psychiatrists concerning the mental health of Dr. Humphrey: Stephen G. Noffsinger, M.D., (as described in the finding above); Gregory B. Collins, M.D.; and Peter R. Breggin, M.D. In order to determine which, if any, report should be relied upon, certain factors should be considered.
  - a. The objectivity of the expert is a critical factor. For the reasons discussed below, the hearing examiner finds Dr. Noffsinger to be the most objective expert.
    - i. Dr. Noffsinger did not have a treatment relationship with Dr. Humphrey, as did Dr. Collins.
    - ii. There is no evidence that Dr. Noffsinger was biased for or against Dr. Humphrey. Dr. Noffsinger testified that he has evaluated between 40 and 50 physicians on behalf of the Board, and in the vast majority of those cases has found in favor of the physicians.
    - iii. Testimony from Dr. Breggin that a doctor would diagnose personality disorder only if he or she is "really angry" at a patient is not persuasive.
    - iv. Although there is no evidence that Dr. Breggin had a treatment relationship with Dr. Humphrey, there are other reasons to doubt his objectivity. In his testimony and in his report, Dr. Breggin's tone appeared unduly biased and partisan. For example, Dr. Breggin testified that, after attempting to reconstruct and understand what Dr. Humphrey had done, "the only correlation *we* could come up with" was that Dr. Humphrey had carried out fantasies of owning machinery.

In addition, the evidence is clear that Dr. Breggin has devoted much of his professional time and energy advocating against the indiscriminate use of psychiatric medications, and identifying the adverse effects that such medications can have on patients. Undoubtedly these are important issues facing society. However, it appears that, in rendering his opinion in this case, Dr. Breggin seized upon medication as the cause of Dr. Humphrey's misconduct to the exclusion of other possibilities.

- b. The integrity of the evidence relied upon by the evaluator is another important factor. With regard to this factor, Dr. Noffsinger specifically stated that, as a forensic psychiatrist, he does not take the subject's statements at face value. On the other hand, it is clear from Dr. Breggin's report that he trusts Dr. Humphrey completely and relied upon Dr. Humphrey's representations. Further, Dr. Collins' 2006 report and his testimony also indicate that he relied upon Dr. Humphrey's representation that he had used over-the-counter substances in 2001.

Reliance upon Dr. Humphrey's representations is ill advised because Dr. Humphrey is an exceedingly unreliable person when it comes to telling the truth. The evidence is clear that Dr. Humphrey is willing to lie and has lied on many occasions. For example:

- i. Following Dr. Humphrey's theft of a compressor from a hospital in October 2001, he first lied to a policeman about his involvement, and then he lied to the CEO of the hospital. He continued lying about his involvement even after being shown a surveillance videotape that showed him committing the act. Dr. Humphrey's testimony at hearing that it had been difficult to discern that it was he on the video only serves to further harm his credibility.
- ii. Dr. Humphrey has told multiple different stories concerning his reason for taking the hospital's compressor. He told Mr. Brunicardi that he did not know why he took the compressor. He then told Dr. Staneluis that he took the compressor out of revenge and a sense of entitlement, and then retracted that statement later. (Later, in his July 20, 2006, analysis, he lied about having made that statement to Dr. Staneluis.) Subsequently, he told a very elaborate story to Dr. Collins concerning his reasons for taking the compressor. In that version, Dr. Humphrey related having had a sense of doom, something chasing him, a need to get away and hide, feelings of isolation, and a change in his personality between entering the hospital and leaving the hospital.
- iii. Dr. Humphrey's representations concerning childhood ADHD have evolved over time:
  - First, Dr. Humphrey told Dr. Chahal in 1996 that growing up was "fast" and that he did well in school.

- When he filled out a questionnaire for Dr. Ammons on February 7, 2002, he did *not* indicate any symptoms of ADHD. In fact, he reported getting average grades in high school, and that he had no school disciplinary problems. However, by the time he first saw Dr. Staneluis two weeks later, he told Dr. Staneluis that he had been plagued by ADHD symptoms all of his life.
  - Around June 25, 2003, Dr. Humphrey reported to Dr. Underwood that he had a history of childhood ADHD with difficulty focusing.
  - On or around October 2, 2003, he told Dr. Ittiara that he had been treated for ADHD during grades one through four.
  - During his presentence investigation which occurred sometime between April 26 and June 2, 2004, Dr. Humphrey said that he had experienced difficulties with hyperactivity and impulsivity as a child. He claimed that his parents did not recognize his medical problem and thought he was just misbehaving.
  - Finally, during his assessment at the Cleveland Clinic in November and December 2004, Dr. Humphrey stated that he had been hyperactive as a child. However, the Cleveland Clinic contacted Dr. Humphrey's father. Dr. Humphrey's father denied that Dr. Humphrey had been tested or treated for ADHD as a child.
- iv. On or about November 23, 2003, Dr. Humphrey lied to the police concerning his involvement in an accident, denying any involvement. In fact, Dr. Humphrey had fled the scene of the accident when a backhoe that he was attempting to steal fell off its trailer, damaging the backhoe and Dr. Humphrey's vehicle.
- v. On January 24, 2004, Dr. Humphrey told outlandish lies to a landowner on whose property he was trespassing, and to a police officer. Dr. Humphrey told both individuals on separate occasions that his name was "Larry" and that he was there to bird watch. He also failed to advise the officer, who found him sitting in the cab of a truck, that he was the owner of the truck. He again lied when he told the officer that he wanted to go back to his car and get his camera to photograph wildlife. In fact, the officer found Dr. Humphrey walking as fast as he could back to his vehicle, clearly trying to get away. Finally, Dr. Humphrey lied to the officer concerning the reason his truck was on the property, stating that he was only trying to help clean up some junk. Dr. Humphrey was unable to explain why he wanted to clean up a junk pile on another person's property.
- vi. In addition, six of the felonies in which Dr. Humphrey pled guilty are theft related offenses that involve dishonesty.

Accordingly, because Dr. Humphrey is not a credible person, it is reasonable to find that, because Dr. Breggin and Dr. Collins are willing to believe Dr. Humphrey's uncorroborated representations, and in fact did rely upon his representations in forming their opinions, their opinions are less credible as a result of such reliance.

### CONCLUSIONS OF LAW

1. The pleas of guilty of Stephen Henry Humphrey, D.P.M., and/or the concomitant judicial findings of guilt, as set forth in Findings of Fact 1, above, 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 Section 4731.22(B)(9), Ohio Revised Code.
2. Dr. Humphrey's conditions as set forth in Findings of Fact 3, above, constitute "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), Ohio Revised Code.

\* \* \* \* \*

The evidence presented in this matter makes it clear that Dr. Humphrey is a convicted felon who committed multiple crimes involving dishonesty. Further, Dr. Humphrey has a history of lying that would make it extremely difficult for the Board to monitor him reliably. Moreover, physicians occupy a unique position of trust in society, making dishonesty a severe professional impediment. For those reasons alone, putting aside any mental disorder that Dr. Humphrey suffers from, Dr. Humphrey's certificate to practice podiatric medicine in Ohio must be permanently revoked in order to protect the public.

### PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Stephen Henry Humphrey, D.P.M., to practice podiatric medicine and surgery in the State of Ohio shall be PERMANENTLY REVOKED.

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



R. Gregory Porter  
Hearing Examiner

# 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

## EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 12, 2007

### REPORTS AND RECOMMENDATIONS

Dr. Kumar announced that the Board would now consider the Reports and Recommendations appearing on its agenda. He asked whether each member of the Board had received, read, and considered the hearing records, the proposed findings of fact, conclusions of law, and orders, and any objections filed in the matters of: Hubert R. Franke, M.D.; Stephen Henry Humphrey, D.P.M.; David Chi Mai, D.P.M.; and Walter Stephen Shonkwiler, D.P.M. A roll call was taken:

ROLL CALL:	Mr. Albert	- aye
	Dr. Egner	- aye
	Dr. Talmage	- aye
	Dr. Varyani	- aye
	Dr. Buchan	- aye
	Dr. Madia	- aye
	Ms. Sloan	- aye
	Dr. Amato	- aye
	Dr. Robbins	- aye
	Dr. Steinbergh	- aye
	Dr. Kumar	- aye

Dr. Kumar 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. Buchan	- aye
	Dr. Madia	- aye
	Ms. Sloan	- aye

Dr. Amato - aye  
Dr. Robbins - aye  
Dr. Steinbergh - aye  
Dr. Kumar - aye

Dr. Kumar 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. They may, however, participate in the matter of Dr. Franke, as that case is not disciplinary in nature and concerns only the doctor's qualifications for licensure. In the matters before the Board today, Dr. Talmage served as Secretary and Mr. Albert served as Supervising Member.

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

Dr. Talmage left the meeting at this time.

STEPHEN HENRY HUMPHREY, D.P.M.

.....

Mr. Browning arrived during the previous discussion, and advised that he had received, read, and considered the hearing records, the proposed findings of fact, conclusions of law, and orders, and any objections filed in the matters of: Hubert R. Franke, M.D.; Stephen Henry Humphrey, D.P.M.; David Chi Mai, D.P.M.; and Walter Stephen Shonkwiler, D.P.M., and that he 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.

**DR. STEINBERGH MOVED TO APPROVE AND CONFIRM MR. PORTER'S FINDINGS OF FACT, CONCLUSIONS, AND PROPOSED ORDER IN THE MATTER OF STEPHEN HENRY HUMPHREY, D.P.M. DR. BUCHAN SECONDED THE MOTION.**

.....

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

ROLL CALL:

Mr. Albert	- abstain
Dr. Egner	- aye
Dr. Talmage	- abstain
Dr. Varyani	- aye
Dr. Buchan	- aye
Dr. Madia	- aye
Mr. Browning	- aye

EXCERPT FROM THE DRAFT MINUTES OF SEPTEMBER 12, 2007  
IN THE MATTER OF STEPHEN HENRY HUMPHREY, D.P.M.

Ms. Sloan	- aye
Dr. Amato	- aye
Dr. Robbins	- aye
Dr. Steinbergh	- aye
Dr. Kumar	- aye

The motion carried.



# State Medical Board of Ohio

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

February 8, 2006

Stephen Henry Humphrey, D.P.M.  
1206 South Main Street  
Bryan, Ohio 43506

Dear Doctor Humphrey:

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 podiatric medicine and surgery, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) By letter dated August 11, 2004, the Board notified you that it proposed to take disciplinary action against your certificate to practice podiatric medicine and surgery in the State of Ohio based on alleged violations of Section 4731.22(B)(9), Ohio Revised Code, related to you having entered pleas of guilty to seven felony counts of Theft, Grand Theft, Vandalism, and Receiving Stolen Property. Further, pursuant to an Interim Agreement with the Board, effective December 13, 2004, you requested a continuance of your hearing because you had been admitted to The Cleveland Clinic for a comprehensive psychiatric assessment, and you agreed that you would not practice podiatric medicine and surgery in Ohio until such time that the allegations contained in the Board's August 11, 2004 Notice of Opportunity for Hearing were fully resolved by the Board.
- (2) By letters dated June 6, 2005, and July 26, 2005, the Board notified you of its determination that it had reason to believe that you were in violation of Section 4731.22(B)(19), Ohio Revised Code, and ordered that you submit to a psychiatric evaluation to be conducted by Stephen Noffsinger, M.D. The determination was based upon one or more of the reasons outlined in such letters, including that you had a history of being prescribed certain medications for a variety of diagnoses. You reported to Dr. Noffsinger on or about September 1, 2005, for purposes of the examination.
- (3) By letter dated January 18, 2006, Dr. Noffsinger notified the Board that he had determined with reasonable medical certainty that you are presently incapable of practicing podiatric medicine according to acceptable and prevailing standards of

*Mailed 2-9-06*

care, due to your Personality Disorder Not Otherwise Specified (with antisocial, narcissistic and passive-aggressive traits) and Adult Antisocial Behavior. Dr. Noffsinger noted that your personality disorder results in serious mental symptoms that render you incapable of practicing medicine, as it substantially impairs your perception of yourself and others, as well as your judgment, behavior, and ability to carry out your fiduciary duty toward your patients. Further, Dr. Noffsinger determined that your Personality Disorder Not Otherwise Specified and Adult Antisocial Behavior do not constitute a mental illness, but do constitute a mental disorder, and are unlikely to respond to treatment. In addition, Dr. Noffsinger opined with reasonable medical certainty that there are no restrictions or conditions that could be placed on your practice that would allow you to continue to practice podiatric medicine according to acceptable and prevailing standards of care.

Dr. Noffsinger further determined with reasonable medical certainty that you currently have the additional diagnoses of Generalized Anxiety Disorder and Malingering. Dr. Noffsinger also opined with reasonable medical certainty that your medications did not cause you to commit the criminal acts for which you were convicted, which criminal acts were further set forth in the Board's August 11, 2004 Notice of Opportunity for Hearing.

Your conditions as alleged in paragraph (3) above, individually and/or collectively, constitute "[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills," as that clause is used in Section 4731.22(B)(19), 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, suspend, refuse to register or reinstate your certificate to practice podiatry 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,



Lance A. Talmage, M.D.  
Secretary

LAT/blt  
Enclosures

CERTIFIED MAIL # 7003 0500 0002 4330 3761  
RETURN RECEIPT REQUESTED

Duplicate mailing: Stephen Henry Humphrey, D.P.M.  
900 S. State Street  
Pioneer, OH 43554

CERTIFIED MAIL # 7003 0500 0002 4330 3709  
RETURN RECEIPT REQUESTED

cc: John Irwin, M.D., J.D.  
8401 Chagrin Road, Suite 19  
Chagrin Falls, Ohio 44023

CERTIFIED MAIL # 7003 0500 0002 4330 3754  
RETURN RECEIPT REQUESTED

STATE MEDICAL BOARD  
OF OHIO

2004 DEC 14 P 4: 29

**INTERIM AGREEMENT  
BETWEEN  
STEPHEN HENRY HUMPHREY, D.P.M.  
AND  
THE STATE MEDICAL BOARD OF OHIO**

Stephen Henry Humphrey, D.P.M., hereby agrees that, until the allegations contained in the State Medical Board of Ohio's (hereinafter Board) August 11, 2004 Notice of Opportunity for Hearing have been fully resolved by the Board, he will not practice podiatric medicine and surgery in the State of Ohio in any form. Dr. Humphrey further agrees that any violation of the above-referenced limitation shall subject him to further disciplinary action pursuant to Section 4731.22, Ohio Revised Code. Dr. Humphrey states that he requested this continuance because he was admitted to the Cleveland Clinic Department of Psychiatry on November 15, 2004 for a comprehensive psychiatric assessment. Dr. Humphrey agrees to provide the State Medical Board with all medical records, including psychiatric and psychological, all results of any such psychiatric or psychological testing, as well as any alcohol or drug records relating to this assessment, including records maintained by facilities or treatment providers other than the Cleveland Clinic, inpatient or outpatient. The State Medical Board, through its counsel, must receive the medical records releases executed by Dr. Humphrey by the time this Interim Agreement is returned for signature by the Secretary and Supervising Member.

The State Medical Board of Ohio, by its acceptance of this Interim Agreement, hereby agrees not to object, through its counsel, to continuing the hearing on the above-referenced allegations until March 15, 2005.

This Interim Agreement shall not be construed as an admission by Dr. Humphrey to the allegations contained in the August 11, 2004 Notice of Opportunity for Hearing.

This Interim Agreement shall become effective immediately upon the last date of signature below.

*Stephen H. Humphrey*  
Stephen Henry Humphrey, D.P.M.

12/11/04  
Date

*Lance Talmage M.D. by Rebecca Allen*  
Lance Talmage, M.D. Secretary  
State Medical Board of Ohio

12/13/04  
Date

*John R. Irwin*  
John R. Irwin, Esq.  
Attorney for Dr. Humphrey

12/11/04  
Date

*Raymond J. Albert by Rebecca Allen*  
Raymond J. Albert, Supervising Member  
State Medical Board of Ohio

12/13/04  
Date



# State Medical Board of Ohio

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

August 11, 2004

Stephen Henry Humphrey, D.P.M.  
1206 South Main Street  
Bryan, Ohio 43506

Dear Doctor Humphrey:

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 podiatry, or to reprimand you or place you on probation for one or more of the following reasons:

- (1) On or about May 3, 2004, in the Court of Common Pleas of Williams County, Ohio, in Case No. 04 CR 001, you pleaded guilty to, and were found guilty of, the below felony counts. Subsequently, on or about June 2, 2004, you were sentenced as shown below, with sentences of incarceration to run concurrently:

Count	Offense	In Violation of	Sentence
I	Grand Theft (F-4)	R.C. 2913.02(A)(1)	18 months
II	Vandalism (F-4)	R.C. 2909.05(B)(1)(a)	18 months
III	Theft (F-5)	R.C. 2913.02(A)(1)	12 months
IV	Theft (F-5)	R.C. 2913.02(A)(1)	12 months
V	Receiving Stolen Property (F-5)	R.C. 2913.51(A)	12 months
VI	Receiving Stolen Property (F-4)	R.C. 2913.51(A)	18 months
VII	Receiving Stolen Property (F-5)	R.C. 2913.51(A)	12 months

The conduct underlying the above pleas of guilty, and findings of guilt, is set forth in detail in the Indictment, Journal Entry Accepting Guilty Plea, and Sentencing Journal Entry, copies of which are attached hereto and incorporated herein.

Your pleas of guilty to, and/or the judicial findings 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 8-12-04*

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.

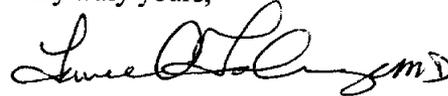
You are further advised that, if you timely request a hearing, you are entitled to appear at such hearing in person, or by your attorney, or by such other representative as is permitted to practice before this agency, or you may present your position, arguments, or contentions in writing, and that at 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, suspend, refuse to register or reinstate your certificate to practice podiatry 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 # 7000 0600 0024 5142 2946  
RETURN RECEIPT REQUESTED

Stephen Henry Humphrey, D.P.M.  
Inmate No. A469885  
Toledo Correctional Institution  
2001 East Central Avenue  
Toledo, Ohio 43608

Michael W. Spangler, Esq.  
Newcomer, Shaffer, Spangler & Breininger  
117 West Maple Street  
Bryan, Ohio 43056-1691

CERTIFIED MAIL # 7000 0600 0024 5142 2953  
RETURN RECEIPT REQUESTED

CERTIFIED MAIL  
# 7000 0600 0024 5142 2731  
RETURN RECEIPT REQUESTED

04CR000001

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

Williams County Grand Jury,  
First Part, 2004

FILED  
COURT OF COMMON PLEAS

2004 JAN 21 P 1:24

INDICTMENT

The Grand Jurors of this County, in the name and by the authority of the State of Ohio, upon their oath, do find and present ~~WILLIAMS COUNTY OHIO~~ <sup>CLERK OF COURTS</sup>

COUNT I

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 23rd day of November 2003 did violate Ohio Revised Code §2913.02(A)(1), Grand Theft, a felony of the fourth degree, in that he

Did with purpose to deprive the owner thereof, Daniel E. Heer, Archbold, Ohio, knowingly obtained or exerted control over property, to wit: a 1996 Case 580 Backhoe, having a value of \$50,000, without the consent of the owner, or person authorized to give consent,

all against the peace and dignity of the State of Ohio.

COUNT II

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 23rd day of November, 2003 did violate Ohio Revised Code §2909.05(B)(1)(a), Vandalism, a felony of the fourth degree, in that he

Did knowingly cause physical harm to property that is owned or possessed by Daniel E. Heer, Archbold, Ohio, and the property is used by the owner or possessor, in his profession, business, trade, or occupation, and the value of the property or the amount of physical harm involved is five hundred dollars or more, to-wit: did \$29,000 worth of damage to Daniel E. Heer's 1996 Case 580 Backhoe in Count I,

all against the peace and dignity of the State of Ohio.

COUNT III

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 23rd day of November, 2003 did violate Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree, in that he

Did with purpose to deprive the owner thereof, Allied Molded Products, Bryan, Ohio, knowingly obtained or exerted control over property, to wit: a 1996 Homemade Utility Trailer, having a value of \$3,000, without the consent of the owner, or person authorized to give consent,

all against the peace and dignity of the State of Ohio.

**COUNT IV**

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 18th day of December, 2003 did violate Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree, in that he

Did with purpose to deprive the owner thereof, Delton Riehle, 03495 SR-49, Edgerton, Ohio, knowingly obtained or exerted control over property, to wit: a 2001 Hurst Tandem Axle Trailer, having a value of \$3,000, without the consent of the owner, or person authorized to give consent,

all against the peace and dignity of the State of Ohio.

**COUNT V**

STEPHEN H. HUMPHREY, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 18th day of December, 2003 did violate Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree, in that he

Did, receive, retain or dispose of certain property, being a load of pole barn lumber valued at \$3230.16, the property of another, to wit: Express Auto, 04728 SR-2, Hicksville, Ohio, the said Stephen H. Humphrey, knowing or having reasonable cause to believe said property had been obtained through the commission of a theft offense,

all against the peace and dignity of the State of Ohio.

**COUNT VI**

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 18th day of December, 2003 did violate Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fourth degree, in that he

Did, receive, retain or dispose of certain property, being a White Bobcat T190 Track Loader valued at \$26,970, the property of another, to wit: Homier Monument, Defiance, Ohio, the said Stephen H. Humphrey, knowing or having reasonable cause to believe said property had been obtained through the commission of a theft offense,

all against the peace and dignity of the State of Ohio.

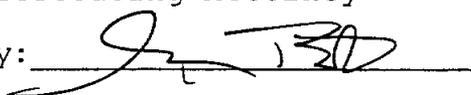
**COUNT VII**

Stephen H. Humphrey, 43, 17243 SR-15 Pioneer, Ohio 43554, at Williams County, Ohio, on or about the 18th day of December, 2003 did violate Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree, in that he

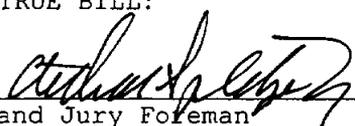
Did, receive, retain or dispose of certain property, being a Crosby Flatbed Trailer valued at \$3500, the property of another, to wit: Homier Monument, Defiance, Ohio, the said Stephen H. Humphrey, knowing or having reasonable cause to believe said property had been obtained through the commission,

all against the peace and dignity of the State of Ohio.

**Craig L. Roth**  
Prosecuting Attorney

By: 

A TRUE BILL:

  
Grand Jury Foreman

STATE OF OHIO, WILLIAMS COUNTY:

I, the undersigned, Clerk of the Court of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the original indictment, with the endorsements thereon, now on file in my office.

WITNESS my hand and the seal of said Court, at Bryan, Ohio, this Twenty-First day of January 2004.

KIMBERLY L. HERMAN, CLERK

By:   
Deputy

STATE OF OHIO, WILLIAMS COUNTY,

I, the undersigned Clerk of the Courts of Williams County  
Common Pleas Court for the aforesaid County and State, do  
hereby certify that the foregoing is a true and correct copy of  
the original Pleadings

now on file in said Courts.

Witness my signature and official seal this 4th day of

June 20 04

Kimberly L. Herman  
CLERK OF COMMON PLEAS COURT  
OF WILLIAMS COUNTY

By Janet L. Cooley  
DEPUTY CLERK

FILED  
COURT OF COMMON PLEAS

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

2004 MAY -3 P 1:44

State of Ohio,

Case No. 04 CR 001

CLERK OF COURTS

Plaintiff,

WILLIAMS COUNTY OHIO

vs.

**JOURNAL ENTRY ACCEPTING  
GUILTY PLEA**

Stephen H. Humphrey,

Defendant.

On this 26th day of April, 2004, defendant Stephen H. Humphrey appeared in open Court with counsel, Michael Spangler. Present for the state was Craig L. Roth, Williams County Prosecutor.

The defendant then entered a guilty plea to Count I, Count II, Count III, Count IV, Count V, Count VI and Count VII of the indictment.

The Court explained §2913.02(A)(1) of the Ohio Revised Code to the defendant as alleged in Count I of the indictment and further advised the defendant that the offense of Grand Theft is a felony of the fourth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17) or eighteen (18) months imprisonment, and a fine of \$5,000.00.

The Court explained §2909.05(B)(1)(a) of the Ohio Revised Code to the defendant as alleged in Count II of the indictment and further advised the defendant that the offense of Vandalism is a felony of the fourth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17) or eighteen (18) months imprisonment, and a fine of \$5,000.00.

The Court explained §2913.02(A)(1) of the Ohio Revised Code to the defendant as

JOURNAL 434 PAGE 99  
JOURNALIZED DATE 5/03/04

alleged in Count III of the indictment and further advised the defendant that the offense of Theft is a felony of the fifth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11) or twelve (12) months imprisonment, and a fine of \$2,500.00.

The Court explained §2913.02(A)(1) of the Ohio Revised Code to the defendant as alleged in Count IV of the indictment and further advised the defendant that the offense of Theft is a felony of the fifth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11) or twelve (12) months imprisonment, and a fine of \$2,500.00.

The Court explained §2913.51(A) of the Ohio Revised Code to the defendant as alleged in Count V of the indictment and further advised the defendant that the offense of Receiving Stolen Property is a felony of the fifth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11) or twelve (12) months imprisonment, and a fine of \$2,500.00.

The Court explained §2913.51(A) of the Ohio Revised Code to the defendant as alleged in Count VI of the indictment and further advised the defendant that the offense of Receiving Stolen Property is a felony of the fourth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11), twelve (12), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17) or eighteen (18) months imprisonment, and a fine of \$5,000.00.

The Court explained §2913.51(A) of the Ohio Revised Code to the defendant as alleged in Count VII of the indictment and further advised the defendant that the offense of Receiving Stolen Property is a felony of the fifth degree punishable by a definite sentence of six (6), seven (7), eight (8), nine (9), ten (10), eleven (11) or twelve (12) months imprisonment, and a fine of \$2,500.00.

The Court then advised the defendant that, with respect to the possible sentence:

Any prison term stated would be a term served without good time reduction;

After being released from prison, a defendant may have up to five (5) years of post-release control;

If a defendant violates any conditions of post-release control, the Parole Authority can return the defendant to prison for up to a maximum of nine (9) months;

Court costs, restitution and other financial sanctions, including fines, and reimbursement for costs of any sanctions, may also be imposed;

A defendant may be given community control for up to five (5) years instead of prison, but if a defendant violates any of the conditions imposed, the defendant could be given a longer period under Court control, greater restrictions, or a prison term from the basic range previously explained.

After addressing the defendant personally and inquiring of the defendant, the Court finds that the defendant understands the nature of the charge(s) and the maximum penalty(ies) involved.

Further, the Court addressed the defendant personally and inquired whether defendant understood that:

Defendant has the right to appeal within thirty (30) days and that any such appeal may be limited in scope;

The Court's judgment and sentence upon acceptance of a plea of guilty is a final judgment which terminates the proceedings;

A plea of guilty is a complete admission of guilt, and that the Court upon acceptance of a plea may proceed with judgment and sentence;

At a trial, the defendant would have the right to remain silent and under no circumstances could defendant be compelled by the prosecution to testify and that by entering a plea of guilty there would be no trial;

By entering the plea of guilty, defendant would be waiving the right to a trial by jury or to a trial to the Court, to confront witnesses against defendant, to have compulsory process for obtaining witnesses in defendant's favor (power of subpoena) and the right to have the State prove guilt beyond a reasonable doubt at a trial;

If defendant is not a citizen of the United States, conviction of the offense to which defendant is pleading guilty may have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States;

To each of the above inquiries, the defendant gave an affirmative answer.

WHEREUPON, the Court finds that the defendant understands these rights and has voluntarily waived said rights and entered and made a voluntary and informed GUILTY PLEA and the Court accepts said plea and hereby finds the defendant **GUILTY** of the following:

Count I, a violation of Ohio Revised Code §2913.02(A)(1), Grand Theft, a felony of the fourth degree;

Count II, a violation of Ohio Revised Code §2909.05(B)(1)(a), Vandalism, a felony of the fourth degree;

Count III, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree;

Count IV, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree;

Count V, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree;

Count VI, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fourth degree; and

Count VII, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree.

It is ORDERED that a pre-sentence investigation be conducted by the Adult Probation Office of Williams County.

Defendant's bond is continued as previously ordered.

Sentencing is scheduled for 2nd day of June, 2004 at 8:30 a.m.

The Clerk shall forward a file-stamped copy of this Journal Entry to the Prosecuting Attorney, to the Attorney for the Defendant, Michael Spangler, and to the Adult Probation Office of Williams County.

  
\_\_\_\_\_  
Anthony L. Gretick, Judge

Approved:

By:   
\_\_\_\_\_  
Craig L. Roth, Williams County Prosecutor

  
\_\_\_\_\_  
Michael Spangler, Attorney for Defendant

STATE OF OHIO, WILLIAMS COUNTY,  
I, the undersigned Clerk of the Courts of Williams County  
Common Pleas Court for the aforesaid County and State, do  
hereby certify that the foregoing is a true and correct copy of  
the original Pleadings

now on file in said Courts.  
Witness my signature and official seal this 4th day of  
June 20 04

Kimberly L. Herman  
CLERK OF COMMON PLEAS COURT  
OF WILLIAMS COUNTY,  
By Janet L. Cooley  
DEPUTY CLERK

IN THE COURT OF COMMON PLEAS OF WILLIAMS COUNTY, OHIO

State of Ohio,

Case No. 04 CR 001

Plaintiff,

vs.

Stephen H. Humphrey,

Defendant.

SENTENCING JOURNAL ENTRY

FILED  
COURT OF COMMON PLEAS  
2004 JUN -2 P 1:11  
CLERK OF COURTS  
WILLIAMS COUNTY OHIO

On June 2, 2004, this matter came on for sentencing. The defendant was present in open Court, together with counsel, Michael Spangler. Present for the State was Craig L. Roth, Williams County Prosecutor.

The defendant was then afforded all rights pursuant to Criminal Rule 32. The Court finds that the defendant has been convicted of the following:

Count I, a violation of Ohio Revised Code §2913.02(A)(1), Grand Theft, a felony of the fourth degree;

Count II, a violation of Ohio Revised Code §2909.05(B)(1)(a), Vandalism, a felony of the fourth degree;

Count III, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree;

Count IV, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree;

Count V, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree;

Count VI, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fourth degree; and

Count VII, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree.

The Court further finds that a prison term is consistent with the purposes and principles of sentencing in Ohio Revised Code §2929.11.

For the reasons stated on the record, and after consideration of the factors under Ohio Revised Code §2929.12, the Court finds that a prison sentence is consistent with the purposes of Ohio Revised Code §2929.11, and the defendant is not amenable to an available community control sanction.

The Court further finds, pursuant to Ohio Revised Code §2929.14(B) that the shortest prison term will demean the seriousness of the defendant's conduct.

Further, the Court finds for the reasons stated on the record, pursuant to Ohio Revised Code §2929.14(C), that the defendant poses the greatest likelihood of committing future crimes.

The Court then addressed the defendant as follows:

Count I, a violation of Ohio Revised Code §2913.02(A)(1), Grand Theft, a felony of the fourth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 18 months;

Count II, a violation of Ohio Revised Code §2909.05(B)(1)(a), Vandalism, a felony of the fourth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 18 months;

Count III, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 12 months;

Count IV, a violation of Ohio Revised Code §2913.02(A)(1), Theft, a felony of the fifth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 12 months;

Count V, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 12 months;

Count VI, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fourth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 18 months; and

Count VII, a violation of Ohio Revised Code §2913.51(A), Receiving Stolen Property, a felony of the fifth degree, you are sentenced to the Ohio Department of Rehabilitation and Correction for 12 months.

The sentences of incarceration for Counts I, II, III, IV, V, VI and VII shall run concurrently.

Defendant shall receive credit for time served of TWO days as of June 2, 2004, plus future custody days while defendant awaits transportation to the institution.

The Court then advised the defendant that post-release control is mandatory in this case up to a maximum of five (5) years, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under Ohio Revised Code §2967.28. The defendant is ordered to serve as part of this sentence any term of post-release control imposed by the Parole Board, and any prison term for violation of that post-release control.

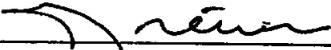
Defendant is to report to CCNO on the 7th day of June, 2004, at 2:00 p.m. When defendant reports to CCNO, defendant's bond, if any, shall be automatically revoked without further order of the Court. The Clerk is ORDERED to issue a Warrant to Convey to the Sheriff of Williams County, Ohio.

Authorities from the Corrections Center of Northwest Ohio are ORDERED to deliver the defendant to the Ohio Department of Rehabilitation and Correction.

Defendant is ORDERED to pay all restitution as determined by the Adult Probation Department, all costs of prosecution, any court-appointed counsel costs, and

any supervision fees permitted, pursuant to Ohio Revised Code §2929.18(A)(4). Bond, if any, to be returned less retainage as authorized by law.

The Clerk shall forward a file-stamped copy of this Journal Entry to the Prosecuting Attorney, to the Attorney for the Defendant, Michael Spangler, the Bureau of Sentence Computation, and to the Adult Probation Department of Williams County.

  
\_\_\_\_\_  
Anthony L. Gretick, Judge

DOCUMENT PREPARED BY THE WILLIAMS COUNTY PROSECUTING ATTORNEY'S  
OFFICE

STATE OF OHIO, WILLIAMS COUNTY,

I, the undersigned Clerk of the Courts of Williams County  
Common Pleas Court for the aforesaid County and State, do  
hereby certify that the foregoing is a true and correct copy of  
the original Pleadings

now on file in said Courts.

Witness my signature and official seal this 4th day of

June 20 04

Kimberly L. Herman  
CLERK OF COMMON PLEAS COURT  
OF WILLIAMS COUNTY

By Janet L. Cooley  
DEPUTY CLERK