

STATE OF MICHIGAN 30th JUDICIAL CIRCUIT	ORDER OF PROBATION (Felony) JUDGMENT OF SENTENCE	JUDGE WILLIAM E. COLLETTE CASE NO. 01-76910-FH
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ORI: MI-330055J

Court address: 407 N Cedar St, Mason, MI 48854
 Probation Department Address and Telephone No: 303 West Kalamazoo Street, Lansing, MI 48933 (517) 483-6100
 Court telephone no. (517) 483-6500

THE PEOPLE OF THE STATE OF MICHIGAN

V

Defendant: SHERMAN L. ALLEN DDS		
CTN 97-01-000002-01	SID Unknown	DOB: 5/3/58

Probation Officer: STEVE WEBER Term: At Least 18 mos Date of Conviction: 8/22/01
 Up to 60 mos.

Offense: MEDICAID FRAUD-FALSE CLAIM
 DEPT. OF HEALTH CARE FRAUD DIVISION
 ATTORNEY GENERAL
 OCT 5 2001
 HEALTH CARE FRAUD DIVISION
 (PACC) MCL 400 6071

Judgment of guilt is deferred under:
 MCL 333 7411; MSA 14 15(7411), Controlled Substance Act
 MCL 750.350a; MSA 25.582(1) Parental Kidnapping Act
 MCL 762 11; MSA 28 853, Youthful Trainee Status
 MCL 750 81-750 81a; MSA 28 1076(5), Domestic Assault

IT IS ORDERED that Defendant be placed on probation under the supervision of the Ingham County Adult Probation Department for the term indicated, and the Defendant shall:

- | | | | | | | | | | | | | | | | | | | | |
|---|--|-------------|----|--|-------|----|--------|-------------|----|-------------|-------------------------|----|-------|-------------------------|----|--|---------------|----|--|
| <ol style="list-style-type: none"> 1 Not violate any criminal law of any unit of government 2 Not leave the state without the consent of this court. 3 Make a truthful report to the probation officer monthly, or as often as the probation officer may require, either in person or in writing, as required by the probation officer 4 Notify the probation officer immediately of any change of address or employment status 5 Not possess, use or have under your control any firearms 6 Not engage in assaultive or threatening behavior 7 Shall obey all rules and regulations of all court-ordered programs 8 a Total amount due shall be paid on a pro rata monthly basis as directed, and paid in full by the end of probation, unless otherwise ordered 9 Pay a supervision fee to the Department of Corrections in the amount of \$600, being \$180 per month. A supervision fee may not be ordered or collected for defendants whose judgment of guilt has been deferred under MCL 769 350a 10 Maintain employment 11 Not use illegal drugs or alcohol and have testing through Oakland County probation 12 Perform 150 hours of volunteer work 13 *Pay restitution to the Medicaid Program 14 Have probation transferred to Oakland County | <ol style="list-style-type: none"> 8 Pay the following to the court: <table border="0" style="margin-left: 20px;"> <tr><td>Fine</td><td>\$</td><td></td></tr> <tr><td>Costs</td><td>\$</td><td>250 00</td></tr> <tr><td>Restitution</td><td>\$</td><td>101,554 83*</td></tr> <tr><td>Crime Victim Assessment</td><td>\$</td><td>60.00</td></tr> <tr><td>State Forensic Lab Fund</td><td>\$</td><td></td></tr> <tr><td>Attorney Fees</td><td>\$</td><td></td></tr> </table> | Fine | \$ | | Costs | \$ | 250 00 | Restitution | \$ | 101,554 83* | Crime Victim Assessment | \$ | 60.00 | State Forensic Lab Fund | \$ | | Attorney Fees | \$ | |
| Fine | \$ | | | | | | | | | | | | | | | | | | |
| Costs | \$ | 250 00 | | | | | | | | | | | | | | | | | |
| Restitution | \$ | 101,554 83* | | | | | | | | | | | | | | | | | |
| Crime Victim Assessment | \$ | 60.00 | | | | | | | | | | | | | | | | | |
| State Forensic Lab Fund | \$ | | | | | | | | | | | | | | | | | | |
| Attorney Fees | \$ | | | | | | | | | | | | | | | | | | |

FILED 30th JUDICIAL CIRCUIT COURT

SEP 19 2001

BY: [Signature]
Deputy Clerk

Violation of any term of this Order of Probation shall be reported to the judge. Defendant's failure to comply with this order may result in a revocation of probation and incarceration

September 19, 2001
Date of disposition

[Signature]

William E Collette, Circuit Judge Bar No (P12058)

A TRUE COPY
 CLERK OF THE COURT
 30th JUDICIAL CIRCUIT COURT

I have read the above order of probation and have a copy. I understand and agree to comply with this order

Date _____ Defendant _____

If the judgment of guilt is deferred as stated above, the clerk of the court shall send a photocopy of this order to the Michigan State Police Central Records Division to create a criminal history record as required under MCL 769 16a

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SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement and Release ("Agreement") is entered into between the State of Michigan, acting through the Department of Attorney General's Health Care Fraud Division, on behalf of the Department of Community Health (collectively referred to as the "State"), and Kerry Heuhs, Marie Heuhs and K.M.H. Dental Management, L.L.C. d/b/a Advanced Technology Dental Center (referred to as "Defendants"), and collectively referred to as the "Parties."

II. PREAMBLE

As a preamble to this Agreement, the State alleges the following:

- A. Defendants are individuals and a Michigan corporation, located at 2002 East Saginaw Street, Lansing, Michigan, and are Medicaid Program providers that have provided dental and related services to Medicaid patients/recipients since 1998.
- B. From 1998 through 2001, (the period of the covered conduct), Defendants and their agents knowingly made false statements and/or misrepresentations of material facts to the Medicaid Program, submitted false claims or caused false claims to be submitted to the Medicaid Program, and accepted payment for false claims. In reliance on Defendants' fraud, false statements, misrepresentation of material facts, knowing concealment of material facts, and fraudulent claims, the State, through the Medicaid Program, paid the claims for Medicaid benefits submitted by or on behalf of Defendants.
- C. Defendants took monies they wrongfully received from the Medicaid Program for their own use. Defendants did not repay, reimburse, or return to the Medicaid Program the

moneys that they were not entitled to, or which exceeded the amount to which they were entitled to receive under the Medicaid Program

D The State contends that Defendants violated the Medicaid False Claims Act, MCL 400 601 *et seq.*

E Defendants deny the matters alleged in Paragraphs B through D above, and further specifically deny that they violated the Medicaid False Claims Act, MCL 400 601 *et seq.*

F In order to avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties have reached a full and final settlement as set forth below. Execution of this Settlement Agreement and payment of moneys shall not be construed as an admission of civil or criminal wrongdoing

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration, the Parties agree as follows:

A Defendants agree to pay to the State of Michigan \$290,000 00 (the "settlement amount") consisting of \$145,000 00, representing reimbursement to the Medicaid Program, and \$145,000 00, representing a civil penalty, as follows:

1) Beginning on April 1, 2004, Defendants shall deliver to the Department of Attorney General a certified check, cashier's check or money order payable to the State of Michigan in the amount of \$1,000 00, and Defendants shall deliver to the Department of Attorney General a certified check, cashier's check, or money order payable to the State of Michigan in the amount of \$1,000 00 on the first day of each month thereafter, until September 30, 2006, at which time Defendants shall deliver to the Department of

Attorney General a certified check, cashier's check or money order payable to the State of Michigan for the remaining balance, \$260,000 00.

B. Subject to the exceptions in Paragraph 5 below, the State (on behalf of its officers, agents, agencies and departments) agrees to release Defendants from any civil or administrative monetary claim the State has or may have under the Medicaid False Claims Act, MCL 400.601 *et seq*, or the common law theories of breach of contract, unjust enrichment, or fraud or any other civil statute through common law theories, for the covered conduct set forth in Paragraphs II B and C.

C. The Parties agree that, if any of the payments of the settlement amount are not honored at the time of presentment at the bank on which they are drawn, or are otherwise found to be unpayable, this Agreement shall be null and void.

D. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Defendants) are all of the following:

- 1) Any liability to the State (or its agencies) for any conduct other than the covered conduct; and
- 2) Any claims based upon such obligations as are created by this Agreement.

E. Defendants fully release the State, its agencies, employees, servants, and agents from any claims (including attorneys fees, costs, and expenses of every kind and however denominated) that Defendants asserted, could have asserted, or may assert in the future against the State, its agencies, employees, servants, and agents, related to the covered conduct and the State's investigation and prosecution thereof.

F This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity

G Defendants expressly warrant that they have reviewed their financial situation and that they currently are solvent, and expressly warrant that they can satisfy the financial obligations under this Agreement.

H The effective date of the Agreement shall be when the final signatory signs the Agreement

I In the event Defendants commence, or a third party commences, before the obligations under this Agreement are satisfied, any case, proceeding, or other action (a) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have any order for relief of Defendants' debts, or seeking to adjudicate Defendants as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Defendants, for all or any substantial part of Defendants, Defendants agree as follows:

1) Defendants' obligations under this Agreement may not be avoided pursuant to 11 U.S.C. Section 547, and Defendants will not argue or otherwise take the position in any such case, proceeding or action that:

(a) Defendants' obligations under this Agreement may be avoided under 11 U.S.C. Section 547;

(b) Defendants were insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the State of Michigan hereunder; or

(c) The mutual promises, covenants and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Defendants

2) In the event that Defendants' obligations under this Agreement are avoided for any reason, including, but not limited to, the exercise of a trustee's avoidance powers under the Bankruptcy Code, the State of Michigan, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action or proceeding against Defendants. If the State of Michigan chooses to do so, Defendants agree that:

(a) Any such claims, actions or proceedings brought by the State (including any proceedings to exclude Defendants from participation in the Medicaid Program) are not subject to an "automatic stay" pursuant to 11 U.S.C. Section 362(a) as a result of the action, case or proceeding described in the first clause of this paragraph, and that Defendants will not argue or otherwise contend that the State's claims, actions or proceedings are subject to an automatic stay;

(b) Defendants will not plead, argue or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel or similar theories, to any such civil or administrative claims, actions or proceedings which are brought by the State of Michigan within ten calendar days of written notification to Defendants, that the releases under this Agreement have been rescinded pursuant to this paragraph; and

3) Defendants acknowledge their agreement in this paragraph as provided in exchange for valuable consideration provided in this Agreement

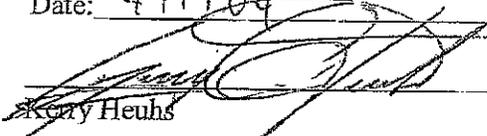
J This Settlement Agreement contains the full and complete agreement between the Parties and shall not be modified in any manner except by written instrument executed by the Parties.

K The undersigned individuals signing this Agreement on behalf of Defendants represent and warrant that they are authorized by Defendants to execute this Agreement The undersigned State of Michigan signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement

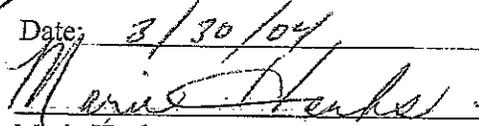
State of Michigan Department of Attorney General

By: 
Kurt E. Krause, Assistant Attorney General

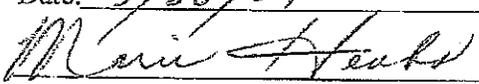
Date: 4/1/04


Keny Heuhs

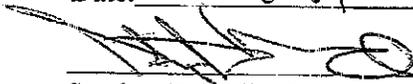
Date: 3/30/04


Marie Heuhs

Date: 3/30/04


For K.M.H. Dental Management, L.L.C. d/b/a
Advanced Technology Dental Center

Date: 3-30-04


Stephan E. Holland, Attorney for Defendants

Date: 4-1-04