

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Lisa Michalsky,  
Petitioner

v

Bureau of Children and Adult Licensing,  
Respondent

Docket No.: 13-011651-DHS

Case No.: DG 090059732

Agency: Department of  
Human Services

Case Type: DHS BCAL

Filing Type: Sanction

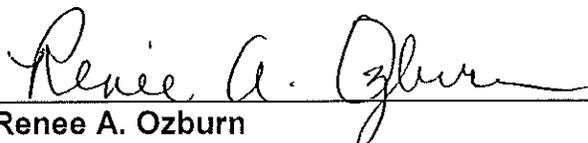
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Issued and entered  
this 21<sup>st</sup> day of May, 2014  
by Renee A. Ozburn  
Administrative Law Judge

ORDER TRANSMITTING SETTLEMENT AGREEMENT

On May 19, 2014, Assistant Attorney General, Brian K. McLaughlin, submitted a Stipulation Acknowledging Settlement, executed on May 7, 2014 by Lisa Michalsky, Petitioner, and James S. Sinnamon, Director of Child Care Licensing, Bureau of Children and Adult Licensing, on behalf of Respondent, on May 9, 2014.

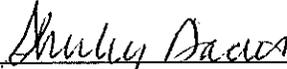
The Michigan Administrative Hearing System has removed this case from its docket, cancelled the hearing scheduled for June 4, 2014, and closed its file in this matter. The Settlement Agreement is attached hereto, incorporated by reference into this Order.

  
\_\_\_\_\_  
Renee A. Ozburn  
Administrative Law Judge

RECEIVED  
AUG 8 2014  
BCAL

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 21<sup>st</sup> day of May, 2014.



Shirley Dacus

Michigan Administrative Hearing System

Lisa Michalsky  
1116 North Chilson Street  
Bay City, MI 48706

Jason N. Ball  
306 Fifth Street, 2nd Floor, Ste. 2B  
Bay City, MI 48708

Brian K. McLaughlin  
Michigan Attorney General  
525 W. Ottawa, Williams Building  
Lansing, MI 48933

Stacy Tomczak  
DHS Bureau of Children & Adult Licensing  
1509 Washington, Suite A  
Midland, MI 48640

Jackie Horton  
Bureau of Child and Adult Licensing  
1509 Washington Avenue Suite A  
Midland, MI 48641

Jason Scheeneman  
Bureau of Children and Adult Licensing  
201 N. Washington Square, 4th Floor  
P.O. Box 30650  
Lansing, MI 48909

Kelly Maltby  
BCAL Investigation & Disciplinary Action Div.  
201 N. Washington Square, 4th Floor  
P.O. Box 30650  
Lansing, MI 48909

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING

SETTLEMENT AGREEMENT

In The Matter Of:  
Lisa Michalsky  
License #: DG090069732

On July 31, 2013, the Bureau of Children and Adult Licensing issued a *Notice of Intent to Revoke* the group child care home license of Lisa Michalsky. In settlement of all issues raised in the *Notice of Intent to Revoke*, the undersigned parties hereby agree:

- 1) Lisa Michalsky has filed an appeal to the *Notice of Intent to Revoke*, making certain admissions and denials, but now desires for this license to be closed without further proceedings or factual determination.
- 2) Lisa Michalsky understands that her group child care home license will be administratively closed, effective with the date of the signature of the Director of the Department of Human Services. Ms. Michalsky understands that the terms and conditions of this agreement are not final until approved by the Director or her designee.
- 3) Lisa Michalsky understands that under MCL 722.125, Section 15(1), a person who provides child care without a license or certificate of registration is guilty of a misdemeanor, and the offense is punishable by up to 90 days imprisonment and/or a \$1,000 fine.
- 4) Lisa Michalsky understands that she is waiving her right to appeal the *Notice of Intent to Revoke*, and an administrative hearing will not be held in this matter.
- 6) Lisa Michalsky agrees not to apply for a license or certificate of registration for a child care organization licensed or registered under the Child Care Organizations Act for a period of two years. Ms. Michalsky also agrees not to reside in or be employed in any capacity at a licensed child care organization for a period of two years.

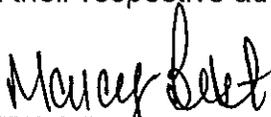
Lisa Michalsky 5-7-14  
Lisa Michalsky Date

James S. Sinnamon 5-8-14  
James S. Sinnamon, Director Date  
Division of Child Care Licensing  
Bureau of Children and Adult Licensing

Maura D. Corrigan 8/6/14  
Maura D. Corrigan, Director Date  
Department of Human Services

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 7th day of August, 2014.



\_\_\_\_\_  
Marcy Best  
Department of Human Services

Jason Scheeneman  
Bureau of Children & Adult Licensing  
Victor Office Center  
201 N. Washington Square  
P.O. Box 30650  
Lansing, Michigan 48909

Brian K. McLaughlin  
Michigan Attorney General  
525 W. Ottawa, Williams Building  
Lansing, MI 48933

✓ Kelly Maltby  
Bureau of Children & Adult Licensing  
Victor Office Center  
201 N. Washington Square  
P.O. Box 30650  
Lansing, Michigan 48909

Jason N. Ball  
306 Fifth Street, 2<sup>nd</sup> Floor, Ste. 2B  
Bay City, MI 48708

Lisa Michalsky  
1116 North Chilson Street  
Bay City, MI 48706

Jackie Horton  
Bureau of Child and Adult Licensing  
1509 Washington Ave, Suite A  
Midland, MI 48641

Stacy Tomczak  
Bureau of Child and Adult Licensing  
1509 Washington Ave, Suite A  
Midland, MI 48641



RICK SNYDER  
GOVERNOR

State of Michigan  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING



MAURA D. CORRIGAN  
DIRECTOR

July 31, 2013

Lisa Michalsky  
1116 North Chilson Street  
Bay City, MI 48706

License #: DG090059732  
SIR #: 2013D0656010

Dear Ms. Michalsky :

Enclosed is a copy of a NOTICE OF INTENT TO REVOKE YOUR LICENSE to operate a group child care home, alleging that you have violated the Child Care Organizations Act. Your options are as follows:

- 1) You may appeal the Notice of Intent and attend a pre-hearing compliance conference. A Notice of Compliance Conference, which provides the date, time, location, and guidelines of the conference, is enclosed.
- 2) You may appeal the Notice of Intent, waive the compliance conference, and proceed directly to an administrative law hearing.
- 3) You may choose not to appeal the Notice of Intent.

If you choose to appeal the Notice of Intent, the Department must receive your WRITTEN APPEAL within 30 days of your receipt of this Notice. If the Department does not receive your written appeal within 30 days of your receipt of this Notice, you will have WAIVED YOUR RIGHT to an administrative law hearing and the proposed action will be final.

Sincerely,

James B. Gale, Director  
Bureau of Children and Adult Licensing

Enclosures

Cc: Jackie Horton, Area Manager

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of  
  
Lisa Michalsky

License #: DG090059732  
SIR #: 2013D0656010

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NOTICE OF INTENT TO  
REVOKE LICENSE

The Michigan Department of Human Services, by James B. Gale, Director, Bureau of Children and Adult Licensing, provides notice of the intent to revoke the license of Licensee, Lisa Michalsky, to operate a group child care home pursuant to the authority of the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111 et seq., for the following reasons:

1. On or about May 10, 1993, Licensee was issued a license to operate a group child care home, with a current licensed capacity of 12, at 1116 North Chilson Street, Bay City, MI 48706.
2. On May 23, 2013, between 4:00 p.m. and 4:30 p.m., the Licensee cared for 13 unrelated children in her child care home. The Licensee exceeded her licensed capacity of 12 children by one child. This is a repeat violation.
3. On May 23, 2013, between 4:00 p.m. and 4:30 p.m., the Licensee failed to maintain the rule-required, caregiver-to-child ratio of one caregiver per six children. This is a repeat violation. The Licensee and one assistant caregiver

were providing care to 13 children. One additional caregiver should have been present to meet ratio requirements.

4. On May 29, 2013, Licensing Consultant Stacy Tomczak conducted an unannounced inspection of the Licensee's child care home. Ms. Tomczak arrived at the Licensee's home at approximately 1:10 p.m. Upon her arrival, Ms. Tomczak observed 14 unrelated children in the Licensee's care. The Licensee exceeded her licensed capacity by two children. This is a repeat violation.
5. On May 29, 2013, Ms. Tomczak observed that the Licensee again failed to maintain the rule-required, caregiver-to-child ratio of one caregiver per six children. This is a repeat violation. During Ms. Tomczak's inspection, the Licensee and one assistant caregiver were providing care to 14 children. One additional caregiver should have been present to meet ratio requirements.
6. The Licensee lacks responsible character and suitability to assure the care, supervision, and protection of children, as demonstrated by her licensing history and repeated noncompliance with child care licensing rules:
  - a. On June 3, 2009, Ms. Tomczak initiated a special investigation (SIR #2009D0656025) of the Licensee's child care home. Ms. Tomczak cited the Licensee for three rule violations, including the failure to maintain the required caregiver-to-child ratio of one caregiver per six children, a violation of R 400.1910(1). On June 3, 2009, Ms. Tomczak conducted an inspection of the Licensee's home and found one caregiver present with nine children.

- b. On August 19, 2009, the Licensee submitted a written corrective action plan to address the rule violations found during Ms. Tomczak's June 2009 special investigation. In this corrective action plan, the Licensee stated, in part, "The child to adult ratio will be followed (1 adult to every 6 children)."
- c. On May 19, 2011, Ms. Tomczak conducted a renewal inspection of the Licensee's child care home. Ms. Tomczak cited the Licensee for five rule violations, including the failure to maintain her licensed capacity of 12 children, a violation of R 400.1908(2). During the inspection, Ms. Tomczak reviewed the Licensee's attendance records and found that the Licensee cared for more than 12 unrelated children on at least four dates in April and May of 2011.
- d. On May 19, 2011, the Licensee submitted a written corrective action plan to address the rule violations found during Ms. Tomczak's May 2011 renewal inspection. In this corrective action plan, the Licensee stated, in part, "We will stay at or under capacity."
- e. On June 26, 2012, Ms. Tomczak initiated a special investigation (SIR #2012D0656015) of the Licensee's child care home. Ms. Tomczak cited the Licensee for two rule violations, including the following:
  - i. On June 25, 2012, the Licensee exceeded her licensed capacity by caring for 13 unrelated children, in violation of R 400.1908(2). This was a repeat violation.
  - ii. On June 25, 2012, the Licensee failed to maintain the rule-required, caregiver-to-child ratio of one caregiver per six children, in violation

of R 400.1910(1). On June 25, 2012, the Licensee and one assistant caregiver were providing care to 13 children. This was a repeat violation.

- f. On July 3, 2012, the Licensee submitted a written corrective action plan to address the rule violations found during Ms. Tomczak's June 2012 special investigation. In this corrective action plan, the Licensee stated, in part, "I will have no more than 6 children per caregiver...I will have no more than 12 children at one time."
- g. Due to the severity of repeat violations found during Ms. Tomczak's June 2012 special investigation, the Licensee was issued a first provisional license on July 16, 2012. On January 15, 2013, the Bureau of Children and Adult Licensing renewed this license to a regular status.

#### COUNT I

The conduct of the Licensee, as set forth in paragraphs 2 and 4 above, evidences a violation of:

**R400.1908(2)**

**Capacity.**

- (2) The group child care licensee shall assure that the actual number of unrelated children in care at any 1 time does not exceed the number of children for which the home is licensed, not to exceed a total of 12.

[NOTE: This is a repeat violation as referenced in paragraph 6 of this Notice.]

## COUNT II

The conduct of the Licensee, as set forth in paragraphs 3 and 5 above, evidences a violation of:

**R400.1910(1) Ratio of caregiving staff to children**

- (1) The ratio of caregiving staff to children present in the home at any 1 time shall be not less than 1 caregiving staff person to 6 children. The ratio shall include all unrelated children in care and any of the following children who are less than 7 years of age:
  - (a) Children of the caregiver.
  - (b) Children of the assistant caregiver.
  - (c) Children related to any member of the child care home family by blood, marriage, or adoption

[NOTE: This is a repeat violation as referenced in paragraph 6 of this Notice.]

## COUNT III

The conduct of the Licensee, as set forth in paragraphs 2 through 6 above, evidences a violation of:

**R400.1902 Caregiver and child care home family.**

- (2) An applicant or the caregiver shall be of responsible character and shall be suitable and able to meet the needs of children and provide for their care, supervision, and protection.

NOTICE IS GIVEN that, Licensee is offered the opportunity to show compliance with all lawful requirements for retention of the license. If Licensee appeals the Notice of Intent and compliance is not shown, formal proceedings will be commenced pursuant to the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111 et seq., rules promulgated thereunder, and the Administrative Procedures Act, 1969 PA 306, as amended; MCL 24.201 et seq. Should formal proceedings commence, you have the right to attorney representation at your own expense.

LICENSEE IS NOTIFIED that pursuant to MCL 722.121(2) of the Child Care Organizations Act, Licensee has 30 days from the date of receipt of the Notice of Intent to file a written appeal of the proposed action. The appeal shall be addressed to Kelly Maltby, Departmental Analyst, Bureau of Children and Adult Licensing, Michigan Department of Human Services. Your written appeal must include your name and license number, and must be submitted using one of the following methods:

- Mail your written appeal to the Bureau of Children and Adult Licensing, P.O. Box 30650, Lansing, MI 48909. You should obtain some type of delivery confirmation to verify delivery;
- Fax your written appeal to the Bureau of Children and Adult Licensing at (517) 335-6121. You should keep a copy of your fax confirmation as proof of submittal; or
- Email your written appeal to [DAUappeals@Michigan.gov](mailto:DAUappeals@Michigan.gov). You should keep a copy of the sent email as proof of submittal.

LICENSEE IS FURTHER NOTIFIED that failure to file a written appeal of this action within 30 days will result in revocation of the license.

DATED: 07-31-2013

  
James B. Gale, Director  
Bureau of Children and Adult Licensing

This is the last and final page of a NOTICE OF INTENT in the matter of Lisa Michalsky , DG090059732, consisting of six pages, this page included.

KMM

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of

License #: DG090059732  
SIR #: 2013D0656010

Lisa Michalsky

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**NOTICE OF COMPLIANCE CONFERENCE**

**Date:** September 20, 2013

**Time:** 11:30 a.m.

**Location:** Midland Co. DHS, 1509 Washington, Suite A, Midland, MI 48641

Pursuant to the Administrative Procedures Act, MCL 24.292(1), you are afforded the opportunity to attend an informal compliance conference. The purpose of the compliance conference is to allow you to show that you were in compliance with the Child Care Organizations Act and the licensing rules promulgated thereunder. You have the right, at your expense, to have an attorney represent you at the compliance conference. You may also bring **one** support person to the compliance conference.

To enable a thorough discussion of the Notice of Intent at the compliance conference, please bring any documents, pictures, etc. that you would like the Department to consider. You may also submit documents to the Department prior to the compliance conference by emailing them to [DAUappeals@Michigan.gov](mailto:DAUappeals@Michigan.gov).

If you are unable to attend the compliance conference at the scheduled date and time, you may request, in writing, that the Department change the date and/or time. The Department will make all reasonable attempts to accommodate your request, but will not reschedule the compliance conference to a date more than 10 days after the scheduled date. If you promptly notify the Department of your inability to attend the compliance conference as scheduled, the Department may be able to schedule the compliance conference to a date earlier than originally scheduled.

If you are unable to show that you were in compliance with the Child Care Organizations Act and licensing rules, and a resolution cannot be reached, the Department will forward the matter to the Michigan Administrative Hearing System for the scheduling of a formal administrative hearing. The Michigan Administrative Hearing System will subsequently notify you of the date, time, and location of the administrative hearing.

All Department meetings and hearings are conducted in compliance with the Americans with Disabilities Act in buildings that accommodate mobility-impaired individuals and have accessible parking. If you require additional accommodations to participate in the compliance conference, please notify the Department at least one week in advance to make the necessary arrangements.

Please direct all written communications regarding the compliance conference or administrative hearing, including your license number, to the individual listed below:

Kelly Maltby, Departmental Analyst  
Disciplinary Action Unit  
Bureau of Children and Adult Licensing  
Michigan Department of Human Services  
7109 W. Saginaw Hwy, 2<sup>nd</sup> Floor  
P.O. Box 30650  
Lansing, MI 48909-8150

STATE OF MICHIGAN  
DEPARTMENT OF HUMAN SERVICES  
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of

License #: DG090059732  
SIR #: 2013D0656010

Lisa Michalsky

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PROOF OF SERVICE

The undersigned certifies that a copy of a Notice of Intent to revoke the license in the above matter was served upon the following persons by mailing the same to them at their address of record by certified mail on August 5, 2013.

Lisa Michalsky  
1116 North Chilson Street  
Bay City, MI 48706



Suzanne Bancroft, Executive Secretary  
Bureau of Children and Adult Licensing