

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Settlement Agreement") is entered into this 15th day of September, 2017 ("Effective Date") by and between Elmora Pharmacy, Inc. (Medicaid ID [REDACTED]) its owners, officers, directors, employees, successors, and assigns ("Elmora") represented by Bruce H. Bergen, Esq. of Krevsky, Silber & Bergen and the STATE OF NEW JERSEY, OFFICE OF THE STATE COMPTROLLER, MEDICAID FRAUD DIVISION ("MFD"). Elmora and MFD are hereinafter collectively referred to as the "Parties" and each individually as a "Party."

WHEREAS, MFD conducted a pharmacy inventory analysis ("Inventory Analysis") and alleged that during the period of review between September 1, 2011 and September 30, 2016, Elmora submitted a total of 461 claims for pharmaceutical products provided to Medicaid patients that could not be supported by wholesaler invoices for an overpayment amount of \$419,613.58 (this scope and period is hereafter referred to as the "covered conduct");

WHEREAS, the parties have agreed that Elmora should be given credit in the amount of \$157,113.58, which reduced the overpayment amount to \$262,500.00;

WHEREAS, the parties desire to amicably resolve all disputes between them giving rise to the alleged overpayment and have reached a mutually acceptable resolution of the outstanding issues.

NOW THEREFORE, in consideration of the mutual promises contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to settle their dispute on the following terms:

(1) Elmora agrees to pay to MFD the sum of two hundred sixty two thousand, and five hundred dollars (\$262,500.00) in one payment. The full payment of \$262,500.00 will be due within 15 days of the execution of this agreement.

(2) Payments shall be by certified check, bank check, or attorney trusts check made payable to "Treasurer, State of New Jersey," and shall be mailed or delivered as follows:

Treasurer, State of New Jersey
Division of Revenue
200 Woolverton Avenue, Building 20
Lockbox 656
Trenton, New Jersey 08646
Attention: Processing Bureau

Elmora will include “**Elmora Drugs/MFD-** [REDACTED]” in the memo line so that the payment is properly credited.

(3) The parties agree that this Settlement Agreement is intended to be a final resolution of all issues in connection with the claims at issue in this matter, and is intended by each party to release the other party and its representatives from liability arising out of the claims at issue in this matter, unless MFD is mandated to act by federal or State law; or mandated by order or judgment of a court or administrative agency (other than MFD).

(4) Nothing in this Settlement Agreement waives the rights of any other State or Federal agency, including, among others, the New Jersey Division of Criminal Justice, from continuing with a pending or beginning a future civil or criminal investigation or other action for alleged conduct concerning Elmora or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights of MFD to conduct an audit or investigation for the improper submission of any claims or conduct not specifically covered by this agreement, and to take any action civilly or criminally for such conduct.

(5) Subject to the express terms of this Settlement Agreement as provided for in paragraphs 1-4 above, by the signatures set forth below, the authorization of which is hereby affirmed Elmora and MFD agree to the following Release: in consideration of the provision hereof including this release, each party agrees to release the other party and its employees, representatives, officers and directors from liability, obligations and damages arising out of the submission by, and payments to, Elmora of any and all claims for reimbursement by Medicaid or the Medicaid Managed Care Program for the covered conduct.

(6) Nothing herein shall constitute an admission, concession or finding of wrongdoing by any party.

(7) This Settlement Agreement shall be construed, enforced and governed by the laws of the State of New Jersey.

(8) This Settlement Agreement may be executed in Counterparts.

(9) This Settlement Agreement is effective upon the last date it is executed by the parties hereto.

(10) This Settlement Agreement sets forth the entire agreement between and among the parties hereto with respect to the claims described herein and supersedes any other written or oral understandings. This Settlement Agreement does not reflect any other terms or conditions or agreements between or among the parties with respect to any other matter.

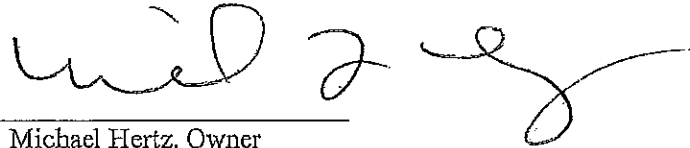
IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

SIGNATURES ON THE FOLLOWING PAGE

DATE:

By:

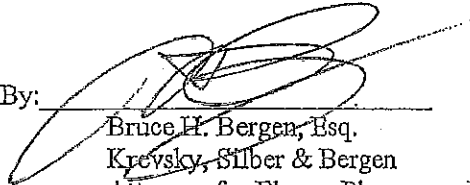


Michael Hertz, Owner
Elmora Pharmacy, Inc.

DATE:

10/9/17

By:



Bruce H. Bergen, Esq.
Krevsky, Silber & Bergen
Attorney for Elmora Pharmacy, Inc.

PHILIP JAMES DEGNAN
STATE COMPTROLLER

DATE:

10/13/17

By:



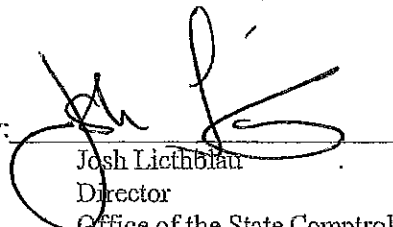
Don Catinello
Supervising Regulatory Officer
Office of the State Comptroller
Medicaid Fraud Division

PHILIP JAMES DEGNAN
STATE COMPTROLLER

DATE:

10/13/17

By:



Josh Lichblau
Director
Office of the State Comptroller
Medicaid Fraud Division