

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE is entered into this 24th day of January, 2019 (“Effective Date”) by and between Ammon Analytical Lab (hereinafter referred to as “Ammon”), and STATE OF NEW JERSEY, OFFICE OF THE STATE COMPTROLLER, MEDICAID FRAUD DIVISION (“MFD”). Ammon and MFD are hereinafter collectively referred to as the "Parties" and each individually as a “Party.”

WHEREAS, MFD conducted an Audit of presumptive and definitive drug testing and specimen validity testing and determined that during the review period, between January 1, 2015 and December 31, 2017, Ammon billed and was reimbursed a total of \$3,022,696.00 for claims that failed to comply with various regulations. As such, Ammon received from Medicaid Fee-For-Service (FFS) and the Managed Care Organizations (MCO) an overpayment amount of \$3,022,696.00 (hereinafter referred to as the “Covered Conduct”).

WHEREAS, Ammon asserts the overpayment was a result of billing errors and was inadvertent; and

WHEREAS, MFD issued a Notice of Claim, Notice of Withhold and Certificate of Debt on December 14, 2018; and

WHEREAS, Ammon provided MFD with documentation supporting its assertion that Ammon requires 18 months to pay the overpayment amount; and

WHEREAS, the parties desire to amicably resolve the dispute between them giving rise to the alleged overpayment and have reached a mutually acceptable resolution of the controversies that exist between them; and

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) Ammon agrees to pay restitution to the Medicaid program in the sum of Three Million Two Hundred Four Thousand Fifty Seven Dollars and Seventy Six Cents (\$3,204,057.76) which includes the principle amount owed (\$3,022,696.00) and 6% interest (\$181,361.76), within eighteen (18) months of the execution of this Settlement Agreement (the "Total Payment Amount"). The payments are to be made by way of eighteen (18) monthly payments in the amount of \$178,003.21, on or before the 15th business day of each month, starting February 1, 2019, as follows:

- i. February 1, 2019;
- ii. March 1, 2019;
- iii. April 1, 2019;
- iv. May 1, 2019;
- v. June 1, 2019;
- vi. July 1, 2019;
- vii. August 1, 2019
- viii. September 1, 2019
- ix. October 1, 2019
- x. November 1, 2019
- xi. December 1, 2019
- xii. January 1, 2020

- xiii February 1, 2020
- xiv March 1, 2020
- xv April 1, 2020
- xvi May1, 2020
- xvii June1, 2020
- xviii July 1, 2020

Within five (5) days of execution of this Settlement Agreement, MFD shall notify DMAHS and each Medicaid Managed Care Organization (“MCO”) to immediately take the necessary steps to terminate withholding of otherwise payable funds.

(2) “Withheld Funds” refers to the monies withheld by DMAHS or the MCOs of otherwise payable claims to Ammon during the period of withholding. The parties understand that the Withheld Funds cannot be determined until MFD has completed an accounting of such funds. MFD shall make all reasonable efforts to provide to Ammon an accounting of Withheld Funds no later than sixty (60) days after the effective date of this Settlement Agreement.

(3) Once MFD has determined the total amount of Withheld Funds that have accrued, MFD will inform Ammon of the amount and provide a revised payment schedule which will reflect any adjustments made to the last one or more payments that result from application of the Withheld Funds.

(4) Nothing in this Settlement Agreement precludes Ammon from disputing the amount of the Withheld Funds by any means permitted by law.

(5) Payment to MFD shall be by certified check, bank check, or attorney trust check made payable to “Treasurer, State of New Jersey,” and shall be mailed or delivered as follows:

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

Ammon will include “Ammon – OSC-MFD” and “MFD-XXXXXXXXXX” in the memo line so that it is properly credited.

(6) If the payment arrangement as provided for in this Settlement Agreement is more than ten (10) days late, Ammon will be in default of this Settlement Agreement and the remaining Total Payment Amount, currently \$3,204,057.76, will immediately become due and collected through any means available to MFD as provided by law.

(7) Ammon agrees to act in full compliance with all applicable state and federal rules and regulations, including but not limited to maintaining the necessary documentation to ensure profile codes assigned to providers include the requested drug tests and only those drug tests ordered by a physician or other licensed practitioner requesting the services and that it will implement policies to ensure that the underlying issues that caused or contributed to the Covered Conduct will be appropriately addressed and thereby not repeated.

(8) The parties agree that this Settlement Agreement is intended to be without prejudice to all remaining claims, rights and remedies against Ammon, and is without prejudice to any defenses that Ammon, its officers, directors, successors or assigns may raise with respect to claims of any nature that may be raised by MFD or any other state or federal agency.

(9) 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 Ammon or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights of MFD to conduct an audit or investigation of prior or future years 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.

(10) The terms of this Settlement Agreement may be modified only by a subsequent written agreement signed by all Parties.

(11) Subject to the express terms of this Settlement Agreement as provided for in paragraphs 1-10 above, by the signatures set forth below, the authorization of which is hereby affirmed, Ammon 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, Ammon of any and all claims for reimbursement by Medicaid or the Medicaid Managed Care Program for the Covered Conduct, referenced above.

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

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

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


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

(16) 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 understanding. 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 on the following page have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

DATE:

By: 

Stephen A Haupt
CEO
Ammon Analytical Lab

PHILIP JAMES DEGNAN
STATE COMPTROLLER

DATE:

By: _____
Josh Lichtblau, Director
Office of the State Comptroller
Medicaid Fraud Division

DATE:

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

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DATE:

By: _____
Stephen A Haupt
CEO
Ammon Analytical Lab


PHILIP JAMES DEGNAN
STATE COMPTROLLER

DATE: 1/25/2019

By: 

Josh Lichtblau, Director
Office of the State Comptroller
Medicaid Fraud Division

DATE: 1/24/19

By: 

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