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FINAL AGENCY DECISION

OAL DKT. NO. HSL 02080-22

AGENCY DKT. NO. 22-001

R.S.,

Petitioner,

v.

DEPARTMENT OF HUMAN SERVICES,

Respondent.

INITIAL DECISION

Richard Q. Hark, Esq., for petitioner (Hark and Hark, LLC, attorneys)

Kathleen Horton, Deputy Attorney General, (Hearing) and **Andrew C. Munger**, Deputy Attorney General, (On the Brief) for respondent (Mathew Platkin, Attorney General of New Jersey, attorney)

Petitioner, R.S. (R.S.) appeals the finding of respondent, Department of Human Services (DHS), that he committed an act of exploitation, as defined in N.J.A.C. 10:44D-1.2, against a service recipient of the Division of Developmental Disabilities (Division or DDD), and the decision of DHS to place his name on the Central Registry of Offenders Against Individuals with Developmental Disabilities (Central Registry). N.J.S.A. 30:6D- 77.

PROCEDURAL HISTORY

DHS issued a written notice to R.S. informing him that his actions of exploitation met the statutory and regulatory requirements for placement of his name on the Central Registry. R.S. requested a hearing on the determination and DHS transmitted the matter to the Office of Administrative Law (OAL), where it was filed as a contested case. The hearing was held on

October 5, 2022. The record closed on January 17, 2023, upon receipt of final summation brief.

FACTUAL DISCUSSION AND FINDINGS

Colleen Schanstine (Schanstine) is an investigator with the Office of Program Integrity and Accountability; she has had approximately 200 investigations in her career. She testified that as part of her responsibilities, she investigates allegations of abuse, neglect and exploitation and substantiates or un-substantiates the allegations that are presented. She was the only witness to testify and has no personal knowledge of the events of March 9, 2022. She simply interviewed for this investigation.

She interviewed six employees, an assistant manager, and an assistant director in the course of this investigation. All of the staff interviewed had been employed with The Arc of Morris from three to fifteen years, and all denied using or stealing T.F.'s personal belongings. T.F. has limited verbal communication and was not able to provide any information regarding the missing items.

T.F. is a member of a state-run group home, Arc of Morris County. She is a woman who suffers from Down Syndrome and dementia. On February 18, 2020, R.S. submitted a Representative Payee Voucher requesting \$951 of T.F.'s funds in order to purchase clothes for T.F. Typically, a staff member familiar with the individual would do the shopping. T.F. can be particularly hard to shop for as she is short, overweight, small on top, and large on the bottom. T.F. wears a size six women's shoe, a medium or large top, and a size sixteen or eighteen in pants.

On February 24, 2020, R.S. purchased \$946.61 worth of items for T.F. from Walmart, Finish Line, and J.C. Penney. Among the items purchased were a size nine pair of Nike sneakers, a Nike club jogger, and a Nike hoodie. After reviewing the items, Ms. Bond and Ms. Isitua informed R.S. that the items purchased did not seem appropriate for T.F.'s size and lifestyle and that they needed to be returned. It was then determined that the pair of size nine Nike sneakers, the Nike club jogger, and the Nike hoodie were missing.

On March 4, 2020, R.S., and other staff members searched the group home for the missing Nike joggers, hoodie, and size nine sneakers. Mr. Marshall and R.S. left the group home at 5:00 p.m., at which time the items had not been located. According to Mr. Inusah Zakaria and Mr. Moise, R.S. returned to the group home on the evening of March 4, 2020 and was observed leaving T.F.'s room. The items were located after R.S. returned to the group home that evening. The Nike joggers and hoodie were found in T.F.'s hamper, and the size nine sneakers were found behind a dry erase board in the staff's closet. These located items appeared to have been worn.

On March 7 and 8, 2020, thorough searches for all of the purchased items were again conducted. It was discovered that \$180.29 worth of items were missing. The missing items were purchased at Walmart and were not items that T.S. would typically wear, including items labeled push-up bras, micro hipsters, camisoles, and a tuxedo set. Of the \$946.61 worth of items that were purchased, \$614.83 worth of items were returned for a refund, \$110.89 worth of items were kept, and \$180.29 worth of items were missing. Accordingly, The Arc of Morris County reimbursed T.F. in the amount of \$180.29. (Ra9; Ra46-47; T56:2-8.)

The Arc of Morris County concluded in their Incident Report that R.S. purchased some of the items for someone other than T.F. and then returned the items to the group home in used condition. On March 9, 2020, R.S. was terminated from his employment with The Arc of Morris County. On that same date, Jeff Pera, residential director of Arc of Morris County, reported the allegation of exploitation.

Having considered the testimonial and documentary evidence offered in this matter, **the ALJ FOUND** as **FACT** that on March 9, 2020, R.S. worked as a caregiver in a group home in Morris County. **The ALJ FURTHER FOUND** as **FACT** that T.F. is a Division of Developmental Disabilities (DDD) service recipient who resides in the Horse Hill group home where R.S. worked as a caregiver. **The ALJ FURTHER FOUND** as **FACT** that while on duty, and as part of his job, R.S. bought items with T.F.'s money in excess of \$100.

LAW AND ANALYSIS

It is the policy of this State to provide for the protection of individuals with developmental disabilities. N.J.S.A. 30:6D-73(a). The Central Registry is intended to prevent caregivers who become offenders against individuals with developmental disabilities from working with individuals with developmental disabilities. N.J.S.A. 30:6D-73(d). A caregiver may be placed on the Central Registry in cases of substantiated abuse, neglect, or exploitation. N.J.S.A. 30:6D-77(b). It is undisputed that R.S. was a caregiver for T.F.

The first issue in this proceeding is whether on March 9, 2020, R.S. committed an act of exploitation against T.F., by purchasing items for his own personal use with her money.

“Exploitation” is defined in N.J.A.C. 10:44D-1.2 as “the act or process of a caregiver using an individual with a developmental disability or his resources for another person’s profit or advantage.”

“Caregiver” is defined in N.J.A.C. 10:44D-1.2 as “a person who receives State funding, directly or indirectly, in whole or in part, or who volunteers to provide services or supports, or both, to an individual with a developmental disability.”

Credibility contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it “hangs together” with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963). A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958).

Respondent’s case in chief offered no direct testimony from any witness nor any evidence to the events of March 9, 2020. The investigator conducted the investigation and interviewed individuals. She testified as to the contents of the investigation report, based on what she found as a result of the investigation. None of the individuals she spoke to, as a result of her investigation, testified.

There was a continuing objection lodged by petitioner's counsel as to the hearsay nature of the investigation report and the witnesses' statements and his inability to cross-examine any of the witnesses identified in the investigative report. Although the OPIA Investigation Report is a business record maintained in the ordinary course of business, it is replete with hearsay. Although hearsay evidence is admissible in OAL hearings N.J.S.A. 52:14B-10(a), it should be afforded whatever weight the tribunal deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability. Under the residuum rule, hearsay "may be employed to corroborate competent proof, or competent proof may be supported or given added probative force by hearsay testimony. But in the final analysis, for a court to sustain an administrative decision, which affects the substantial rights of a party, there must be a residuum of legal and competent evidence in the record to support it." Weston v. State, 60 N.J. 36, 51 (1972). There is none here.

Nevertheless, there is no residuum of legal and competent evidence available to sustain the allegations in this case. The respondent's case is simply based on hearsay. The unfortunate result is that T.F. was taken advantage of and exploited without any repercussions to the offender. For the foregoing reasons, **the ALJ CONCLUDED** that DHS improperly determined that R.S. exploited money from T.F.

ORDER

Accordingly, it was **ORDERED** that the determination by the Department of Human Services that R.S. committed an act of exploitation and his name placed on the Central Registry is **REVERSED**.

The ALJ **FILED** his initial decision with the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY** for consideration. This recommended decision may be adopted, modified, or rejected by the **DIRECTOR OF THE OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY**, who by law is authorized to make a final decision in this matter. If the Director of the Office of Program Integrity and Accountability does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

EXCEPTIONS FILED TO THE INITIAL DECISION

Respondent: Judge Buono concluded in his initial decision that Respondent's case is simply based on hearsay and failed to produce a residuum of legal and competent evidence to sustain the allegations made in this case. This analysis stems from N.J.A.C. 1:1-15.5 - Hearsay evidence, which states:

"residuum rule (a) Subject to the judge's discretion to exclude evidence under 1:1-15.1(c) or a valid claim of privilege, hearsay evidence shall be admissible in the trial of contested cases. Hearsay evidence which is admitted shall be accorded whatever weight the judge deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and

production, and, generally, its reliability. **(b)** Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness.”

Respondent disagrees with the Court and its assertion that Respondent failed to provide any residuum of legal and competent evidence to sustain the allegations that Petitioner exploited T.F.

The Court correctly stated that on February 24, 2020, after submitting a Representative Payee voucher, Petitioner purchased \$946.61 worth of items for T.F. from Walmart, Finish Line, and J.C. Penney, including a pair of size nine sneakers, a Nike club jogger, and a Nike hoodie. The Court noted that T.F. wears a size six women’s shoe. Further, after review of the clothing purchased by Petitioner, it was decided by Petitioner’s supervisors to return the shoes, jogger, and hoodie, as they were not the correct size and not appropriate for T.F.’s lifestyle. According to witness testimony obtained during the investigation, the physical receipts of the purchased merchandise did not coincide with the items found in the home, despite multiple searches of the home.

Further, the Court further correctly stated that a thorough search was subsequently conducted on the purchased items and found that \$180.29 worth of the items were missing. Specifically, the Court correctly stated that the missing items which were purchased at Walmart, were not items that T.F. would typically wear. Of the \$946.61 worth of times purchased, \$614.83 worth of items were returned for a refund; however, \$180.29 worth of items were missing.

Additionally, throughout the pendency of this matter, Petitioner has demonstrated his disinterest in a full development of the record, choosing instead to meaningfully participate in the investigation and hearing only when it suited him. Indeed, Petitioner was given the opportunity to cooperate with the investigation but failed to provide testimony or a statement to the investigator with his version of events. Petitioner did not testify during the hearing and, as such, his version of the events was not a part of the record. Petitioner stated he could not cross examine the creator of the documents, statements, and tallies another investigator performed. He is wrong; it is beyond dispute that Investigator Colleen Schanstine was cross-examined by Petitioner’s counsel. Additionally, throughout the course of discovery, Petitioner had every chance and right to determine the identities of the other individuals and to use his subpoena power to have them testify at the hearing. Finally, Petitioner called two witnesses on his behalf during the hearing. In his summation brief, Petitioner refers to these witnesses’ testimony to argue, essentially, that Petitioner was denied his opportunity to respond to the allegations. and enter his case in chief onto the record. He chose not to exercise those rights. In short, Petitioner cannot credibly argue that the State has violated any of his due process rights; to the contrary, any infringement on his rights has been self-inflicted.

As to the two witnesses called by Petitioner, Judge Buono neither mentions them in his initial decision, nor does he make any findings as to their credibility. This witness testimony should not only be looked at critically by the Department, N.J.S.A. 52:14B-10(c), it should also be weighed against the testimony provided by Respondent’s witness to further show a residuum of legal and competent evidence to sustain the allegations made in this case.

In conclusion, the documentary and testimonial evidence presented at the hearing demonstrates by a preponderance of the evidence that Petitioner exploited T.F. in February of 2020. As stated above, the evidence demonstrates that Petitioner was responsible for T.F.'s funds. As the residential manager, R.S. had full financial responsibility for consumer funds. Moreover, Petitioner signed the Representative Payee Voucher, and took possession of the funds.

Second, the documentary and testimonial evidence demonstrates that Petitioner used T.F.'s funds for another person's advantage. A majority of the items purchased were clearly not meant for T.F. as they were the incorrect size or type of item. Respondent has clearly established that T.F. was exploited by Petitioner.

The ALJ's application of N.J.S.A. 52:14B-10(a) and the residuum rule is incorrect. Respondent respectfully asks that the Director reject the Initial Decision, find that Petitioner's actions constituted exploitation of T.S., and uphold his placement on the Central Registry of Offenders Against Individuals with Developmental Disabilities.

Petitioner: None received.

Agency's Discussion of the Initial Decision

The Initial Decision based its flawed legal analysis upon the statement, "Respondent's case in chief offered no direct testimony from any witness nor any evidence to the events of March 9, 2020."¹ The case for exploitation covers the period of time from February 18, 2021, when as, Residence Manager, R.S. took control of \$951.00 of T.F.'s personal funds, through R.S.'s purchases of items for T.F. on February 24, 2020, the numerous searches of the group home, until the final return of merchandise inappropriate for use by T.F. on March 5, 2020 and March 10 and 11, 2020. The documentary evidence, in the form of physical receipts from the vendors, are included in the joint exhibits produced at the hearing (J-7, J-8, J-2, J-3, and J-4) and admitted into evidence by the ALJ. The documentary evidence comes directly from business records maintained during the ordinary course of business. Business records are exceptions to the hearsay rule and not considered hearsay evidence.

The ALJ's Initial Decision is based upon its incorrect factual discussion that, "Colleen Schanstine was the only witness to testify and has no personal knowledge of the events of March 9, 2022. She simply interviewed for this investigation." Schanstine did far more than simply interview. She collected documentary evidence that was never challenged at the hearing - particularly business records relevant to the entrustment of T.F.'s personal funds to R.S., the purchases R.S. made with T.F.'s money, and documentation of the returned and retained merchandise. She authored the OPIA Office of Investigation Report (R-1, that was produced at the hearing and admitted into evidence by the ALJ). The report does include her interviews of the staff of the group home. The ALJ wrote in the Initial Decision, that "She interviewed six employees, an

¹ The only incident mentioned in the Initial Decision, occurring on March 9, 2020, is R.S.'s termination of employment by Arc Morris; an independent decision made by his employer, unrelated to the Central Registry Statute appeal of the hearing.

assistant manager, and an assistant director in the course of this investigation,” Schanstine is a professional investigator performing the duties of Central Registry investigation as prescribed by the Central Registry statute, which would include interviewing staff.

The ALJ erroneously dismissed the investigation report as being replete with hearsay. “There was a continuing objection lodged by petitioner’s counsel as to the hearsay nature of the investigation report and the witnesses’ statements and his inability to cross-examine any of the witnesses identified in the investigative report. Although the OPIA Investigation Report is a business record maintained in the ordinary course of business, it is replete with hearsay.” (ID p.5) The Petitioner repeatedly complained of investigation’s interviews containing hearsay. At any time before the hearing, Petitioner had the opportunity to determine the identities of the interviewees and to use his subpoena power to have them testify at the hearing. Petitioner did not subpoena any witnesses; instead, Petitioner produced two, unannounced witnesses, whose testimony was not mentioned in the Initial Decision.

The interviews of the staff by Schanstine contain hearsay. Their only relevance to determining whether or not exploitation has occurred, however, is minimal and strongly buttressed by legally competent evidence. Hearsay evidence is admissible in Administrative hearings, under the residuum rule. According to the ALJ’s citation: “A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958). (ID pp.4-5) The interviews of the group home employees are unremarkable and consistent in explaining that the majority of the clothing purchased by R.S. was wholly inappropriate for T.F. Most importantly their statements were all consistent with “common experience.” As the ALJ wrote in the Initial Decision, “T.F. can be particularly hard to shop for as she is short, overweight, small on top, and large on the bottom. T.F. wears a size six women’s shoe, a medium or large top, and a size sixteen or eighteen in pants.” Yet, where the ALJ should have applied the residuum rule, it was not applied. The alleged hearsay in the interviews was not incredible, not inconsistent with other testimony, nor was it inconsistent with the common experience; the interview evidence should not have been rejected. The alleged hearsay of the purchases being inappropriate is further bolstered by the physical evidence of the enormous amount of returned items shown on the return receipts. The consistent and universally understood “common experience” is that: T.F., as the Initial Decision describes her, “she is short, overweight, small on top, and large on the bottom.... wears a size six women’s shoe.” would not wear a size 9 shoe or slim leg pants. The clothing purchased for T.F., by R.S. using T.F.’s money, was wholly inappropriate and unsuitable. In this case, the Initial Decision ignores that competent proof – business records - may be supported or given added probative force by hearsay testimony. The hearsay of the interviews bolsters the assertion that the merchandise was inappropriate for T.F.

The ALJ misrepresented the findings of the respondent’s case in chief. The ALJ correctly described Colleen Schanstine as an experienced investigator with the Office of Program Integrity and Accountability in the Initial Decision. However, the assertions that, “she was the only witness to testify and has no personal knowledge of the events of March 9, 2022. She simply interviewed for this investigation” is incorrect. There were two other witnesses that testified at the hearing whose testimony was never mentioned in the Initial Decision. (ID Appendix) The ALJ noted that Schanstine interviewed six employees, an assistant manager, and an assistant director of the group

home during the course of her investigation. Most conspicuously, however, the ALJ overlooked the fact that the investigator compiled physical, documentary evidence as to the exploitation of T.F. into the investigation report. This evidence included the Representative Payee voucher from R.S. requesting \$951 of T.F.'s funds to purchase clothing for T.F. (J-7), R.S.'s Job Description explaining his financial responsibilities as a Residence Manager for Arc Morris (J-8), copies of the receipts for the purchases made by R.S. for T.F. (J-2), and copies of the receipts of the items returned to retailers that were inappropriate for use by T.F. (J-3 and J-4). Schanstine was the author of an extensive investigation that compiled documentary evidence of exploitation and interviews with the witnesses to the events. The investigation report and joint exhibits – the voucher, job description, and all of the physical receipts – were admitted as evidence at the hearing. (Transcript p.6 lines 8–16) In the Initial Decision, the ALJ further stated that the OPIA Investigation Report is a business record maintained in the ordinary course of business (ID p.5) which contained hearsay, for which there must be a residuum of supporting legal and competent evidence. Business records are exceptions to the hearsay rule and not considered hearsay evidence. Hearsay evidence is allowable to support the competent business records presented and the business records are competent legal proof to support hearsay.

In the Factual Discussion and Findings of the Initial Decision, the ALJ wrote, “On February 18, 2020, R.S. submitted a Representative Payee Voucher requesting \$951 of T.F.'s funds in order to purchase clothes for T.F.” (ID p.2) As defined by R.S.'s job description (J-8), one of the principle requirements of his position as Residence Manager at Arc Morris was, “Full financial responsibility (as delineated) of consumer funds, petty cash, and household accounts” (#8). On February 18, 2020, R.S. signed a Representative Payee Voucher (J-7) with the Director of Arc Morris requesting \$951.00 to purchase clothing for T.F. The money was drawn from T.F.'s personal funds. The voucher and job description are business records maintained in the ordinary course of ARC Morris' business, documenting that J.S. took financial responsibility of \$951 of T.F.'s personal funds, delineated to purchase clothing for T.F.

In the Factual Discussion and Findings of the Initial Decision, the ALJ wrote, “On February 24, 2020, R.S. purchased \$946.61 worth of items for T.F. from Walmart, Finish Line, and J.C. Penney.” (ID p.3) Joint Exhibit 2 contains the purchase receipts, from which the graph below was created for this Final Agency Decision:

Walmart	\$9.98
Walmart	\$343.58
Finish Line	\$450.00
J.C. Penny	\$143.05
TOTAL	\$946.61

Each of these receipts bear the initials of R.S. Each of these receipts is a business record created and kept in the ordinary course of business. The retailers created them for the purpose of documenting sales and Arc Morris maintained them for the purpose of documenting the disposition of T.F.'s personal funds. Business records are exceptions to the hearsay rule and not considered hearsay evidence.

In the Factual Discussion and Findings of the Initial Decision, the ALJ wrote, “On March 7

and 8, 2020, a thorough search for all of the purchased items was conducted. It was discovered that \$180.29 worth of items were missing. The missing items were purchased at Walmart and were not items that T.S. would typically wear, including items labeled push-up bras, micro hipsters, camisoles, and a tuxedo set. Of the \$946.61 worth of items that were purchased, \$614.83 (²*sic, actually \$654.73, see below, and Arc Morris' addition J-10 at Ra066*) worth of items were returned for a refund, \$110.89 worth of items were kept (*J-10 at Ra065*), and \$180.29 (*J-10 at Ra067*) worth of items were missing.” (ID p.3) Joint Exhibit 3 shows a receipt for a pair of shoes, size 9.0, exchanged for another pair of shoes, size 6.0. Joint Exhibit 4 contains returned merchandise refund receipts from which the graph below was created for this Final Agency Decision:

Walmart	\$151.70
Walmart	\$9.98
Finish Line	\$230.00
Finish Line	\$120.00
J.C. Penny	\$98.87
J.C. Penny	\$44.18
TOTAL	\$654.73

The returned merchandise refund receipts are business records created and kept in the ordinary course of business. The retailers created them for the purpose of documenting refunds and Arc Morris kept them, under Central Registry requirements, for the purpose of documenting the recapture of T.F.’s personal funds. Joint Exhibit 10 contains T.F.’s Consumer Financial Ledger showing T.F.’s funds disbursement and the inventories of T.F.’s possessions after the extensive searches mentioned in the Initial Decision, which was part of the OPIA investigation and admitted into evidence by the ALJ at the hearing. Business records are exceptions to the hearsay rule and not considered hearsay evidence.

FINAL AGENCY DECISION

Pursuant to N.J.A.C. 1:1-18.1(f) and based upon a review of the ALJ's Initial Decision and the entirety of the OAL file – the Initial Decision, exhibits, transcript, and submissions - I **REJECT and REVERSE** the Administrative Law Judge’s findings and conclusions. Although the ALJ had the opportunity to assess the credibility and veracity of the witnesses, there were no such findings made. As discussed above, evidence was mischaracterized as being hearsay without any discussion or analysis. The Initial Decision declared that “the respondent’s case is simply based on hearsay.” No specific instances of hearsay were mentioned, nor did the Initial Decision analyze how they fell outside of the residuum rule. The Initial Decision ignored the physical, documentary evidence in business records to properly determine how R.S. depleted F.T.’s resources. The Initial Decision gave no explanation as to its admission of the investigation report as a business record and then ignored the non-hearsay evidence that it included. The Initial Decision is fatally incorrect because it does not consider the business records discussed above – specifically Joint Exhibits J-2, J-3, J-4, J-7, J-8, and J-10. The exhibits are competent proof sufficient to support the hearsay contained in the interviews; and the hearsay further strengthens the evidence in the exhibits. The Initial Decision was improperly considered and must be corrected.

² The italicized citations are added to the Final Agency Decision and not part of the citation from the ID.

Based upon the arguments concerning the evidence presented in the Discussion of the Initial Decision (above), **I FIND AS FACT:**

- T.F. was a client of DDD residing in a group home operated by Arc Morris.
- R.S. was a Resident Manager employed by Arc Morris, with full financial responsibility for T.F.'s funds
- R.S. was a caretaker for T.F.
- On February 18, 2020, R.S. signed a Representative Payee Voucher with the Director of Arc Morris requesting \$951.00 to purchase clothing for T.F. The money was drawn from T.F.'s personal funds.
- On February 24, 2020, R.S. purchased \$946.61 worth of items for T.F. from Walmart, Finish Line, and J.C. Penney and returned initialed receipts to Arc Morris.
- On March 4, 2020, after determining that a majority of the items purchased by R.S. were inappropriate for use by T.F. or missing, an initial search of the group home was begun. R.S. was present at this time.
- On March 7 and 8, 2020, thorough searches for all of the purchased items were, again, conducted.
- The items R.S. had purchased for T.F., but had been deemed inappropriate for use by T.F. were returned to the retailers for refunds of \$654.73.
- After accounting for the items that T.F. retained, it was discovered that \$180.29 worth of items were missing.
- At all times R.S. was responsible for T.F.'s finances, particularly the \$951 clothing funds.
- R.S. was given \$951 of T.F.'s personal funds to purchase clothing; of the items purchased by R.S. \$654.73 worth were returned for refunds and \$110.89 worth of items were kept by T.F. \$180.29, of the original \$951.00 of T.F.'s personal funds entrusted to R.S., were no longer available to her.
- T.F. was dispossessed of \$180.29 worth of items or refunds by R.S., as proved by the business records compiled during the OPIA investigation.

I CONCLUDE and AFFIRM THAT R.S. committed an act of Exploitation defined in N.J.A.C. 10:44D-1.2, as “the act or process of a caregiver using an individual with a developmental disability or his resources for another person’s profit or advantage.” **I CONCLUDE and AFFIRM FURTHER THAT** during R.S.’ custody of F.T.’s personal funds, F.T.’s resources were diverted to someone other than F.T., in an amount greater than \$100. **I CONCLUDE and AFFIRM** that the dispossessed funds totaled over \$100 - above the regulatory threshold - warranting R.S.’s name to be listed on the Central Registry of Offenders Against Individuals with Developmental Disabilities. **I CONCLUDE and AFFIRM** that there is a preponderance of the evidence demonstrating that R.S., a caretaker, exploited a total of more than \$100 from F.T., an individual with developmental disabilities and that R.S.’s placement on the Central Registry of Offenders Against Individuals with Developmental Disabilities is correct and proper.

Therefore, pursuant to N.J.A.C 1:1-18.6(d), it is the Final Decision of the Department of Human Services that **I ORDER** the placement of R.S. on the Central Registry of Offenders Against Individuals with Developmental Disabilities.

Date: March 17, 2023

Deborah Robinson

Deborah Robinson, Director
Office of Program Integrity and Accountability