



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
Board of Registration in Pharmacy

239 Causeway Street, Suite 500, Boston, MA 02114

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

Tel: 617-973-0960
Fax : 617-973-0980
TTY : 617-973-0988

www.mass.gov/dph/boards/pharmacy

MARYLOU SUDDERS
Secretary

MONICA BHAREL, MD, MPH
Commissioner

May 12, 2017

VIA FIRST CLASS & CERTIFIED MAIL NO. 7016 1370 0001 4117 2669,
RETURN RECEIPT REQUESTED

Christopher Colon
[REDACTED]

VIA FIRST CLASS & CERTIFIED MAIL NO. 7016 1370 0001 4117 2676,
RETURN RECEIPT REQUESTED

Christopher Colon
[REDACTED]

RE: In the Matter of Christopher Colon, Docket No. PHA-2015-0039
License No. PT18573

Dear Christopher Colon:

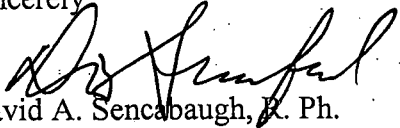
Please find enclosed the **Final Decision and Order by Default** issued by the Board of Registration in Pharmacy on May 12, 2017 and effective **May 22, 2017**. This constitutes full and final disposition of the above-referenced complaint, as well as the final agency action of the Board. Your appeal rights are noted on page 3.

Please note that as of the effective date, your license status will change to **Revoked; Expired**. It will remain in **revocation** status until the Board notifies you of a change in license status in accordance with the terms of the order.

Please direct all questions, correspondence and documentation relating to licensure reinstatement to the attention of Lisa Ferguson at the address above. You may also contact Ms. Ferguson at (617) 973 – 0950.

You may contact Heather Engman, Esq., Board Counsel at (617) 973 – 0950 with any questions that you may have concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David Sencabaugh". The signature is written in a cursive style with a large initial "D".

David A. Sencabaugh, R. Ph.
Executive Director,
Board of Registration in Pharmacy

Encl.

cc: Sean Casey, Esq., Prosecuting Counsel

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
CHRISTOPHER COLON)
License No. PT 18573)
PT License expired 3/16/2017)
_____)

Docket No. PHA-2015-0039

FINAL DECISION AND ORDER BY DEFAULT

On January 31, 2017, the Board of Registration in Pharmacy (“Board”) issued and duly served on Christopher Colon, License No. PT18573 (“Respondent”) an Order to Show Cause (“Show Cause Order”) related to a complaint filed regarding Respondent’s pharmacy technician license.¹ In addition to stating the allegations against the Respondent, the Show Cause Order notified Respondent that an Answer to the Show Cause Order (“Answer”) was to be submitted within twenty one (21) days of receipt of the Show Cause Order.²

The Show Cause Order further notified the Respondent of the Right to Request a Hearing on the allegations and that any Hearing request (“Request for Hearing”) was also to be submitted within twenty one (21) days of receipt of the Show Cause Order.³

Respondent was further notified that failure to submit an Answer within twenty one (21) days “shall result in the entry of default in the above-captioned matter” and, if defaulted, “the Board may enter a Final Decision and Order that assumes the truth of the allegations in the Show Cause Order and may revoke, suspend, or take other disciplinary

¹ Pursuant to 801 CMR 1.01(6)(a).

² In accordance with 801 CMR 1.01(6)(d)(2).

³ Pursuant to G.L. c. 112, §61.

Christopher Colon
PT18573
PHA-2015-0039

action against [Respondent's] license to practice as a pharmacy technician in the Commonwealth of Massachusetts, including any right to renew [Respondent's] license.”

A copy of the Show Cause Order and Certificate of Service is attached to this Final Decision and Order by Default and is incorporated herein by reference.

As of the date of this Final Decision and Order by Default, Respondent has failed to file either an Answer or a Request for Hearing.

The Board has afforded Respondent an opportunity for a full and fair hearing on the allegations in the Show Cause Order as required by G.L. c. 30A, §10, and sufficient notice of the issues involved to afford Respondent reasonable opportunity to prepare and present evidence and argument as required by G.L. c. 30A, §11(1). The Board has also notified Respondent of the obligation under 801 CMR 1.01(6)(d) to file an Answer to the Show Cause Order within twenty one (21) days of its receipt and of the consequences of failing to file an Answer or otherwise respond.

As authorized by G.L. c. 30A, §10(2), the Board may make informal disposition of any adjudicatory proceeding by default. Upon default, the allegations of the complaint against Respondent are accepted as true. *Danca Corp. v. Raytheon Co.*, 28 Mass. App. Ct. 942, 943 (1990).

Based on the foregoing, the Board enters a default in the above-captioned matter and, consequently, the allegations in the Order to Show Cause are deemed to be true and Respondent has waived the right to be heard. In accordance with the Board's authority and statutory mandate, the Board orders as follows:

ORDER

On May 4, 2017, in accordance with the Board's authority and statutory mandate, the Board voted to issue this Final Decision and Order by Default and **REVOKE** Respondent's pharmacy technician license, PT18573, effective ten days from the Date Issued, by the following vote:

In favor: Catherine Basile; Philippe Bouvier; Karen Conley; William Cox;
Timothy Fensky; Patrick Gannon; Ali Raja; Andrew Stein;
Edmund Taglieri; Richard Tinsley
Opposed: None
Abstained: None
Recused: Susan Cornacchio
Absent: Garrett Cavanaugh; Michael Godek

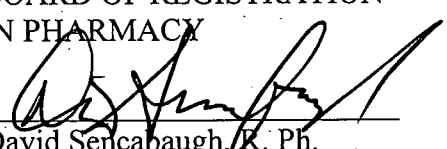
EFFECTIVE DATE OF ORDER

The Final Decision and Order by Default shall be effective 10 days from the Date Issued.

RIGHT TO APPEAL

Respondent is hereby notified of the right to appeal this Final Decision and Order to the Supreme Judicial Court, pursuant to M.G.L. c. 112, § 64 and M.G.L. c. 30A, §§ 14 and 15, within thirty (30) days of receipt of notice of this Final Decision and Order by Default.

BOARD OF REGISTRATION
IN PHARMACY



David Sencabaugh, R. Ph.
Executive Director

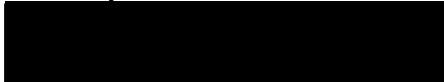
Date Issued: 5/12/17

Christopher Colon
PT18573
PHA-2015-0039

Notice to:

BY FIRST CLASS MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Christopher Colon


Christopher Colon


BY HAND

Sean Casey
Office of Prosecutions
Department of Public Health
Division of Health Professions Licensure
239 Causeway Street
Boston, MA 02114

Christopher Colon
PT18573
PHA-2015-0039

This is an important notice. Please have it translated.

Este é um aviso importante. Queira mandá-lo traduzir.

Este es un aviso importante. Sirvase mandarlo traducir.

ĐÂY LÀ MỘT BẢN THÔNG CÁO QUAN TRỌNG
XIN VUI LÒNG CHO DỊCH LẠI THÔNG CÁO ẤY

Ceci est important. Veuillez faire traduire.

本通知很重要。請將之譯成中文。

នេះគឺជាជំនាញសំខាន់សូមមេត្តាបកប្រែជូនផង

ΠΡΟΣΟΧΗ, ΑΥΤΟ ΕΙΝΑΙ ΣΗΜΑΝΤΙΚΟ. ΠΑΡΑΚΑΛΩ ΜΕΤΑΦΡΑΣΤΕ

Questo è un 'avviso importante. Si pregadi farlo tradurre.



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Health Professions Licensure
239 Causeway Street, Suite 500, Boston, MA 02114

HARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

Tel: 617-973-0800
TTY : 617-973-0988
www.mass.gov/dph/boards

MARYLOU SUDDERS
Secretary
MONICA BHAREL, MD, MPH
Commissioner

January 31, 2017

SENT BY FIRST CLASS AND CERTIFIED MAIL,
RETURN RECEIPT REQUESTED
ARTICLE NO. 7016 1370 0001 4117 5103 to:

Mr. Christopher Colon
[REDACTED]

ARTICLE NO. 7016,1370 0001 4117 5110 to:

Mr. Christopher Colon
[REDACTED]

RE: In the Matter of Christopher Colon
License No. PT 18573
Docket No. NUR-2015-0039

Dear Mr. Christopher Colon:

The Massachusetts Board of Registration in Pharmacy within the Department of Public Health, Bureau of Health Professions Licensure (Bureau), has completed its investigation of the above-listed complaint against your license (and right to renew said license) to practice as a pharmacy technician. For the reasons set forth in the attached Order to Show Cause, the Board is proposing to suspend, revoke or impose other discipline against your license (and right to renew said license) to practice as a pharmacy technician (License No. PT 18573).

The Order to Show Cause and any subsequent hearing is governed by Massachusetts General Laws Chapter 30A, the State Administrative Procedure Act, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 et seq. You must submit an Answer to the Order to Show Cause and you have a right to request a hearing by filing a written request for a hearing, as specified in the Order to Show Cause.

Your failure to submit an Answer to the Order to Show Cause within twenty-one (21) days of receipt of the Order to Show Cause *shall result in the entry of default* in the above-referenced

matter. Your failure to submit a written request for a hearing within twenty-one (21) days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations therein and on any Board disciplinary action. Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license to practice as a pharmacy technician in the Commonwealth of Massachusetts, including any right to renew your license.

The request for a hearing and your Answer must be filed with the below signed Prosecuting Counsel.

If you are represented by an attorney in this matter, all communications should be made through your attorney.

You may contact me at (617) 973-0880 if you have any questions regarding this matter.

Sincerely,



Sean J. Casey
Prosecuting Counsel

Enclosure

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

Board of Registration in Pharmacy)
Petitioner)

v.)

CHRISTOPHER COLON)
License No. PT 18573)
License Expires 3/16/17)
Respondent)

Docket No. NUR-2015-0039

ORDER TO SHOW CAUSE¹

Christopher Colon, you are hereby ordered to appear and show cause why the Massachusetts Board of Registration in Pharmacy (Board) should not suspend, revoke or otherwise take action against your registration to practice as a pharmacy technician in the Commonwealth of Massachusetts, Registration No. PT 18573 or your right to renew such registration, pursuant to Massachusetts General Laws (G.L.) chapter 112, § 61 and Code of Massachusetts Regulations (CMR), Title 247, §§ 9.01 and 10.03, based upon the following facts and allegations:

Factual Allegations

1. On or about September 24, 2014, you submitted a Pharmacy Technician Application with the Board along with an "Employer Verification of Experience" form which indicated that you satisfied the application requirements by working as a pharmacy technician

¹ It is well-settled administrative law that due process requires that "notice must be given that is reasonably calculated to apprise an interested party of the proceeding and to afford him an opportunity to present his case;" due process does not require Prosecuting Counsel to provide a detailed description of evidence they intend to introduce at a disciplinary hearing. *Langlitz v. Board of Registration of Chiropractors*, 396 Mass. 374, 376-377 (1985). *See Lapointe v. License Board of Worcester*, 389 Mass. 454, 458 (1983) ("Due process requires notice of the grounds on which the board might act rather than the evidentiary support for those grounds"). Certainly, notice pleadings do not require Prosecuting Counsel to match factual allegations to grounds for discipline. Accordingly, where, as here, there exists significant overlap between factual allegations and grounds for discipline contained within the Order to Show Cause, Prosecuting Counsel's matching of factual allegations to grounds for discipline are offered as suggestions, and not as an exhaustive characterization of the evidence to be adduced at a hearing.

trainee at CVS Store # 299, located at 44 West Boylston Street, Worcester, Massachusetts (CVS Store # 299).

2. On October 2, 2014, the Board issued you a license to practice as a pharmacy technician, License No. PT18573. It has remained current since that date and is due to expire on March 16, 2017, unless you renew same.
3. Shortly thereafter, you began working as a licensed pharmacy technician at CVS Store # 299.
4. On November 7, 2014, the Board received formal notice that you stole various items from CVS Store # 299, since being licensed and employed as a pharmacy technician.
5. On November 7, 2014, you admitted to CVS loss prevention and the Worcester Police Department that over the preceding two weeks you stole various items from CVS Pharmacy #299, to wit:
 - a. Merchandise such as food, various household, and personal items totaling approximately \$200.00;
 - b. U.S. Currency as a result of fraudulent refunds and/or taking money straight from the register, totaling approximately \$400.00
 - c. Hydrocodone-Acetaminophen, 5/325mg pills, a total of approximately 4 (four) pills on 2 (two) separate occasions.²
6. On November 7, 2014, you agreed to refund CVS store #299 \$600.00. To date, you have not refunded same.
7. You did not have authorization or a prescription for any of the Hydrocodone-Acetaminophen 5/325mg pills, that you took. You admitted that you took them from the pharmacy by simply putting them in your pocket and leaving the store, whereupon you ingested them to get over a headache from consuming too much alcohol.
8. You never informed the board of any of the above-mentioned incident(s) at any time.
9. You changed your address and never notified the Board of same.

Legal Basis for Discipline

- A. Your conduct as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your

² Hydrocodone-Acetaminophen, 5/325mg pills is a Schedule II controlled substance. See G.L. c. 94C (Controlled Substance Act).

registration to practice as a pharmacy technician and or right to renew, pursuant to G.L. c. 112, § 42A for violation of the rules and regulations established by the Board.

- B. Your conduct as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to G.L. c. 112, § 61 for being guilty of deceit, malpractice, gross misconduct in the practice of the profession, or of any offense against the laws of the Commonwealth relating thereto.
- C. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 9.01(1) for failing to conduct professional activities in conformity with federal, state and municipal laws, ordinances and/or regulations, including the regulations of the Board.
- D. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 9.01(2) for dispensing drugs in a manner which is intended, either directly or indirectly, to circumvent the law.
- E. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 9.01(6) for engaging in any fraudulent or deceptive act.
- F. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(a) for violating any of the duties and standards set out in Board regulations, 247 CMR 2.00 *et seq.*, or any rule or written policy adopted by the Board.
- G. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(b) for violating any provision of G.L. c. 112, §§ 24 through 42A or any provision of state or federal statutes or rules or regulations promulgated there under related to the practice of the profession.

- H. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(e) for engaging in misconduct in the practice of the profession.
- I. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(h) for engaging in abuse or illegal use of prescription drugs or controlled substances.
- J. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(k) for engaging in conduct that has the capacity or potential to place the public health, safety or welfare at risk.
- K. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(l) for engaging in conduct that has the capacity or potential to deceive or defraud.
- L. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(r) for engaging in conduct that demonstrates a lack of good moral character.
- M. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(u) for engaging in conduct which undermines public confidence in the integrity of the profession.
- N. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(w) for failing to comply with recognized ethical standards of the

profession, including, but not limited to, the standards of practice for pharmacists, pharmacy interns, pharmacies and pharmacy departments set forth in 247 CMR 9.01: *Code of Conduct for Registered Pharmacists, Pharmacies and Pharmacy Departments.*

- O. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew, pursuant to 247 CMR 10.03(1)(x) for violating G.L. c. 94C or any rules or regulations promulgated there under.
- P. Your conduct as alleged warrants disciplinary action by the Board against your registration to practice as alleged in Paragraphs 2 through 9 above, and any other evidence that may be adduced at hearing, warrants disciplinary action by the Board against your registration to practice as a pharmacy technician or right to renew in that your conduct as alleged constitutes unprofessional conduct and conduct which undermines public confidence in the integrity of the profession. *Sugarman v. Board of Registration in Medicine*, 422 Mass. 338, 342 (1996); *see also, Kvitka v. Board of Registration in Medicine*, 407 Mass. 140, *cert. denied*, 498 U.S. 823 (1990); *Raymond v. Board of Registration in Medicine*, 387 Mass. 708, 713 (1982).

You have a right to an adjudicatory hearing (hearing) on the allegations contained in the Order to Show Cause before the Board determines whether to suspend, revoke, or impose other discipline against your license. G.L. c. 112, §61. Your right to a hearing may be claimed by submitting a written request for a hearing *within twenty-one (21) days of receipt of this Order to Show Cause*. You must also submit an Answer to this Order to Show Cause in accordance with 801 CMR 1.01(6)(d) *within twenty-one (21) days of receipt of this Order to Show Cause*. The Board will give you prior written notice of the time and place of the hearing following receipt of a written request for a hearing.

Hearings shall be conducted in accordance with the State Administrative Procedure Act, G.L. c. 30A, §§ 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03, under which you are granted certain rights including, but not limited to, the rights: to a hearing; to secure legal counsel or another representative to represent your interests; to call and examine witnesses; to cross-examine witnesses who testify against you; to testify on your own behalf; to introduce evidence; and to make arguments in support of your position.

The Board will make an audio recording of any hearing conducted in the captioned matter. In the event that you wish to appeal a final decision of the Board, it is incumbent on you to supply a reviewing court with a "proper record" of the proceeding, which may include a written transcript. *New Bedford Gas and Light Co. v. Board of Assessors of Dartmouth*, 368 Mass. 745, 749-750 (1975). Upon request, the Board will make available a copy of the audio recording of the proceeding at your own expense. Pursuant to 801 CMR 1.01(10)(i)(1), upon motion, you "may be allowed to provide a public stenographer to transcribe the proceedings at

[your] own expense upon terms ordered by the Presiding Officer.” Those terms may include a requirement that any copy of the transcript produced must be sent immediately upon completion, and on an ongoing basis, directly to the Presiding Officer by the stenographer or transcription service. The transcript will be made available to the Prosecutor representing the Board. Please note that the administrative record of the proceedings, including, but not limited to, the written transcript of the hearing, is a public record and subject to the provisions of G.L. c. 4, § 7 and G.L. c. 66, § 10.

Your failure to submit a written request for a hearing within twenty-one (21) days of receipt of this Order to Show Cause *shall constitute a waiver of the right to a hearing* on the allegations herein and on any Board disciplinary action. Your failure to submit an Answer to the Order to Show Cause within twenty-one (21) days of receipt of the Order to Show Cause *shall result in the entry of default* in the captioned matter.

Notwithstanding the earlier filing of an Answer and/or request for a hearing, your failure to respond to notices or correspondence, your failure to appear for any scheduled status conference, pre-hearing conference or hearing dates, or your failure to otherwise defend this action shall result in the entry of default.

If you are defaulted, the Board may enter a Final Decision and Order that assumes the truth of the allegations in this Order to Show Cause, and may revoke, suspend, or take other disciplinary action against your license as a pharmacy technician in the Commonwealth of Massachusetts, including any right to renew your license.

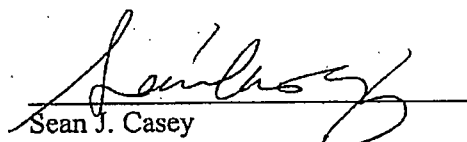
Your Answer to the Order to Show Cause and your written request for a hearing should be filed with the below-signed Prosecuting Counsel.

You or your representative may examine Board records relative to this case prior to the date of the hearing during regular business hours at the office of the Prosecuting Counsel. If you elect to undertake such an examination, then please contact Prosecuting Counsel in advance at (617) 973-0880 to schedule a time that is mutually convenient.

BOARD OF REGISTRATION IN PHARMACY,

Dated: January 31, 2017

By:


Sean J. Casey
Prosecuting Counsel
Office of the General Counsel
Department of Public Health
239 Causeway Street, 5th floor
Boston, MA 02114
(617) 973-0880

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing cover letter, Notice to Translate, and Order to Show Cause was served upon the Respondent at:

[REDACTED]

by first class mail, postage prepaid, as well as by certified mail, return receipt requested, Article No. 7016 1370 0001 4117 5103.

as well as at:

[REDACTED]

by first class mail, postage prepaid, as well as by certified mail, return receipt requested, Article No. 7016 1370 0001 4117 5110.

This 31st day of January, 2017.



Sean J. Casey
Prosecuting Counsel