NEW YORK STATE DEPARTMENT OF HEALTH STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

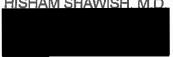
OF

HISHAM SHAWISH, M.D.

BPMC No. 18-149

COMMISSIONER'S
ORDER OF
SUMMARY
ACTION

TO: HISHAM SHAWISH, M.D.



The undersigned, Howard A. Zucker, M.D., J.D., Commissioner of Health, pursuant to N.Y. Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the Commonwealth of Pennsylvania, State Board of Medicine, has made a finding substantially equivalent to a finding that the practice of medicine by HISHAM SHAWISH, M.D. (the Respondent) New York license number 292095, in that jurisdiction constitutes an imminent danger to the health of its people, as is more fully set forth in the "Order of Temporary Suspension and Notice of Hearing" (henceforth: "predicate action"), attached hereto as Appendix "A" and made a part hereof.

It is therefore:

ORDERED, pursuant to N.Y. Public Health Law §230(12)(b), that effective immediately, Respondent shall not practice medicine in the State of New York, or practice in any setting under the authority of Respondent's New York license.

Any practice of medicine in violation of this Order shall constitute Professional Misconduct within the meaning of N.Y. Educ. Law §6530(29) and may constitute unauthorized medical practice, a Felony defined by N.Y. Educ. Law §6512.

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty days after the final conclusion of the disciplinary proceeding in the predicate action. The hearing will be held pursuant to the provisions of N.Y. Pub.

Health Law §230, and N.Y. State Admin. Proc. Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Hearing or Notice of Referral Proceeding to be provided to the Respondent after the final conclusion of the proceeding in the predicate action. Said written Notice may be provided in person, by mail, or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

Respondent shall notify the Director of the Office of Professional Medical Conduct, New York State Department of Health, Riverview Center, 150 Broadway, Suite 355, Albany, New York 12204-2719 via Certified Mail, Return Receipt Requested, of the final conclusion of the proceeding in the predicate action, immediately upon such conclusion.

THE NEW YORK PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York June 20, 2018

Howard A. Zucker, M.D., J.D. Commissioner of Health New York State Department of Health

Inquiries should be directed to:

Marc S. Nash Senior Attorney New York State Health Department Bureau of Professional Medical Conduct Corning Tower, Room 2512 Albany, NY, 12237

Phone: 518-473-4282 Fax:518-473-2430

EXHIBIT "A"

COMMONWEALTH OF PENNSYLVANIA
DEFARTMENT OF STATE

BEFORE THE STATE BOARD OF MEDICINE

Paster Story

Commonwealth of Pennsylvania, Bureau of Professional and Occupational AMairs"

File No.:

18-49-02727

Hisham Mustafa Shawish, M.D. Respondent

Docket No:

OR71 -49-18

ORDER OF TEMPORARY SUSPENSION AND NOTICE OF HEARING

SUSPENSION ORDER

The Board finds the Prosecuting Attorney has alleged facts in the Petition, which, if taken as Irue, establish at each and every count that the Respondent's continued practice as a physician and surgeon within the Commonwealth of Pennsylvania, along with the exercise of any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board, makes Respondent an immediate and clear danger to the public health and safety. Therefore in accordance with Section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), 63 P.S. § 422.40(a), the Board ORDERS that the license to practice as a physician and surgeon issued to the Respondent, license number MD439870, along with any other authorizations to

practice the profession issued by the Board to Respondent, are TEMPORARILY SUSPENDED upon the service of this Order. Respondent shall surrender his wall certificate(s), biennial renewal certificate(s) and wallet card(s) (or notarized affidavit of their loss or destruction) to representatives of the Bureau of Enforcement and Investigation or the Bureau of Professional and Occupational Affairs, immediately upon service of this Order in accordance with Section 44 of the Act, 63 P.S. § 422.44.

PRELIMINARY HEARING

A preliminary hearing shall be scheduled and conducted by the Board or Office of Rearing Examiners to be convened within thirty (30) days from the date of issuance of this Order. The preliminary hearing shall be limited to evidence on the issue of whether there is a prima facie case to support the temporary suspension of the Respondent's license and other authorizations to practice the profession issued by the Board. The preliminary hearing will be held at a location designated by the Board or a hearing examiner for the Board.

The Respondent is entitled to be present at the preliminary licaring and may be represented by an attorney, cross-examine witnesses, inspect physical evidence, call witnesses, offer evidence and testimony and make a record of the proceedings.

If the Board or hearing examiner finds a prima facie case is not established, Respondent's license and other authorizations to practice the profession issued by the Board will be immediately restored. If a prima facie case is established, the temporary suspension shall remain in effect until vacated by the Board, but in no event longer than 180 days, unless otherwise ordered or agreed to by the participants.

AUDITIONAL FORMAL ACTION

In addition to this temporary suspension proceeding, the prosecuting attorney will commence a separate action to suspend, revoke or otherwise restrict Respondent's license and other authorizations to practice the profession issued by the Board through the filing of a charging document, an Order to Show Cause. The Order to Show Cause may include, but not be limited to, the facts which were alleged in the Petition for Immediate Temporary Suspension. Any Order to Show Cause filed by the prosecuting attorney will be served upon the Respondent and the Order will direct Respondent to reply to the charges in a written answer within twenty (20) days of the issuance of the Order to Show Cause. A formal hearing on that Order to Show Cause will then be scheduled and conducted by the Board or the Hearing Examiner for the Board.

PROCEDURES

Continuances will be granted for good cause only. A request for a continuance must be filed with the Prothonotary, in writing, at least one (1) week prior to the date of the hearing. The requirement of the one (1) week advance filing of a request for continuance will be waived only upon a showing of good cause. The failure to have an attorney present and a request for continuance to retain an attorney will not be considered a valid reason for the granting of a continuance on the day of the hearing. A request by the Respondent for an extension of time or a continuance which will delay the preliminary hearing or the formal hearing must be accompanied by the agreement of the Respondent that the 180-day temporary suspension will continue during whatever additional time is necessary to conclude the proceedings.

All proceedings are conducted in accordance with the Administrative Agency Law, 2 Pa.C.S. §§ 501-508, 701-704; 63 P.S. §§ 2201-2207; and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1-35.251. A record of the hearing will be stenographically prepared by an official reporting service. A copy of the transcript may be secured by personally making arrangements with the reporting service at the time of the hearing.

Any document submitted in this matter must be filed with:

Prothonotary
Department of State
2601 North Third Street
P.O. Box 2649
Harrisburg, PA 17105
717-772-2686

Also, you must send a separate copy of any documents submitted in this matter to the prosecuting attorney named below at:

Tara J. Smith
Prosecuting Attorney
Commonwealth of Pennsylvania
Department of State
P.O. Box 69521
Harrisburg, PA 17106-9521

BY ORDER: BEFORE THE STATE BOARD OF MEDICINE PROBABLE CAUSE SCREENING PANEL

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Committee Member

Member

John M. Mitchell, L.P., C.C.P. Committee Member

Board Counsel:

Peter D. Kovach or Wesley J. Rish

For the Commonwealth:

Tara J. Smith

Prosecuting Attorney

Commonwealth of Pennsylvania

Bureau of Professional and Occupational Affairs

P.O. Box 69521

Harrisburg, PA 17106-9521

Respondent:

Hisham Mustafa Shawish, M.D.

File No.:

18-49-02727

Date of Issuance:

2 25,2011

BY ORDER: BEFORE THE STATE BOARD OF MEDICINE PROBABLE CAUSE SCREENING PANEL

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For the Commonweal	th:	Tara J. Smith Prosecuting Attorney Commonwealth of Pennsylvania Bureau of Professional and Occupational Affairs P.O. Box 69521 Harrisburg, PA 17106-9521
Respondent:	ı	Hisham Mustafa Shawish, M.D.
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COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE STATE BOARD OF MEDICINE

PRODUCTION DICE.

Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs

File No.:

18-49-02727

Hisham Mustafa Shawish, M.D. Respondent

V. *

Docket No:

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PETITION FOR IMMEDIATE TEMPORARY SUSPENSION

AND NOW, the Commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs, by and through its Prosecuting Attorney, Tara J. Smith, petitions the State Board of Medicine (hereinafter "Board") for the immediate temporary suspension of the license to practice as a physician and surgeon issued to Hisham Mustafa Shawish, M.D. (hereinafter "Respondent"), along with any other licenses, registrations, certificates, approvals, authorizations, or permits (hereinafter referred to collectively as "authorizations to practice the profession") issued by the Board to Respondent at the time this Petition is Granted, pursuant to Section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act") as amended, (hereinafter "Act"), 63 P.S. § 422.40(a), and in support thereof alleges as follows:

- 1. Petitioner is the Bureau of Professional and Occupational Affairs, a departmental administrative agency within the Pennsylvania Department of State.
- 2. Respondent holds a license to practice as a physician and surgeon in the Commonwealth of Pennsylvania, license no. MD439870.
- 3. Respondent's license was originally issued on April 27, 2010, is current through December 31, 2018, and, absent further Board action, may be renewed, reactivated or reinstated thereafter upon the filing of the appropriate documentation and payment of the necessary fees.

- 4. At all times pertinent to the Factual Allegations, Respondent held a license to practice as a physician and surgeon in the Commonwealth of Pennsylvania.
 - 5. Respondent's last known address on file with the Board is
- On or about February 6, 2018, a Criminal Complaint was filed against the Respondent in Magisterial District Court No. 35-2-02 (hereinafter "Criminal Complaint").
- 7. The Criminal Complaint charged the Respondent with felony violations of the Pennsylvania Crimes Code as follows:
 - a. 18 Pa. C.S. §3126(a)(7) (2 counts) Indecent Assault Person
 Less than 13 Years of Age (Third Degree Felony); and
 - b. 18 Pa. C.S. 66301(a)(1) (2 counts) Corruption of Minors (Third Degree Felony).
- 8. The Affidavit of Probable Cause supporting the Criminal Complaint set forth the following facts:
 - a. On November 4, 2014, Hermitage Police Detective was advised that a Forensic Interview was scheduled for a 7-year-old male at the Child Advocacy Center in New Castle;
 - The 7-year-old male told a teacher that Respondent touched his genitals when he spent the night at his home;
 - c. The 7-year-old victim is friends with Respondent's son;
 - d. Detective attended the Forensic Interview at which time the 7-year-old victim disclosed that Respondent touched

his privates when he was sleeping in the same room during a sleep over;

- e. The 7-year-old victim disclosed that Respondent did this three (3) separate times, touching him on his genital area over his clothing, and demonstrated such to the interviewer;
- f. On November 4, 2014, Respondent was interviewed at the Hermitage Police Department at which time he advised the 7-year-old victim did spend the night at his residence and they shared the same room, but Respondent denied that he touched him in any way;
- g. On May 22, 2017, Sergeant of the Hermitage Police Department received a referral fax from Children and Youth Services regarding an allegation of the sexual assault of a child by the child's friend's father;
- h. The full name of the alleged perpetrator was not reported, however, his first name was reported to be Hisham and it was further reported that he was a doctor;
- i. The allegation was that, while staying at a friend's home, the victim, woke up without his pants on and the Respondent was naked on top of him;
- j. On June 21, 2017, a Forensic Interview of was conducted at the Venango County Children and Youth Services huilding, at which time he disclosed that he spent the night at his

friend's resident and was awoken by Respondent pulling his pants and underwear down;

- k. described how Respondent "humped" his buttocks and rubbed his bare penis on C.1.'s buttocks;
- I. disclosed that this incident lasted five (5) to ten (10) minutes.

(A true and correct copy of the Criminal Complaint with the Affidavit of Probable Cause is attached hereto as Exhibit A and is incorporated by reference.)

- A preliminary hearing was held on March 21, 2018 at which time all charges were held to the Court of Common Pleas of Mercer County.
- 10. As a physician and surgeon, the Respondent has in the past worked around children, under the age of eighteen (18), and could potentially in the future work around children under the age of eighteen (18).
 - 11. Following his arrest, Respondent's bail was set at \$25,000.00, monetary.
- 12. Presently, Respondent has posted the \$25,000.00 bail through a surety bond and is free to resume practice as a physician and surgeon.
- 13. The Respondent is charged with multiple counts of offenses that are considered sexually violent offenses, pursuant to the Sex Offender Registration and Notification Act (hereinafier "SORNA"), Act 111 of 2011 (as amended by Act 91 of 2012), 42 Pa. C.S. §9799.10 et. seq. See 42 Pa. C.S. §9799.12.
- 14. The Respondent is charged with 2 counts of violating 18 Pa. C.S. §3126(a)(7) (Indecent Assault Person Less than 13 Years of Age), which is a Tier III sexual offense requiring the

¹ Section 9799.12 of SORNA defines a sexually violent offense as, "An offense Specified in Section 9799.14...as a Tier I, Tier II or Tier III sexual offense. 42 Pa. C.S. §9799.12.

Respondent to register as a sexual offender for the rest of his life, if convicted. Sec 42 Pu. C.S. §§9799.14(d)(8) and 9799.15(a)(3).

15. The Respondent is charged with 2 counts of violating 18 Pa.C.S. §6301(a)(1) (Corruption of Minors), which is a Tier I sexual offense requiring the Respondent to register as a sexual offender for a period of 15 years, if convicted. See 42 Pa. C.S. §§9799.14(b)(8) and 9799.15(a)(1).

16. If the Respondent is convicted on both counts of 18 Pa. C.S §6301(a)(1), this will constitute a Ticr III sexual offense requiring the Respondent to register as a sexual offender for the rest of his life, Sec 42 Pa. C.S. §59799.14(d)(16) and 9799.15(a)(3).

- 17. In passing SORNA, the Pennsylvania General Assembly explicitly found the following:
 - (4) Sexual offenders pose a high risk of committing additional sexual offense and protection of the public from this type of offender is a paramount governmental interest.
 - (5) Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and the effective operation of government.

42 Pa. C.S. §9799.11 (a)(4)-(5).

- 13. Respondent is free to resume his practice as a physician and surgeon.
- 19. Based upon the foregoing factual allegations, the Respondent's continued practice as a physician and surgeon within the Commonwealth of Pennsylvania, along with the exercise of any other authorizations to practice the profession issued by the Board, makes Respondent an immediate and clear danger to the public health and safety.

WHEREFORE, the Petitioner respectfully requests that the Board issue an Order immediately suspending all of Respondent's authorizations to practice the profession issued by the

Board, and in particular, the license to practice as a physician and surgeon, license number MD439870, pursuant to the authority granted to it pursuant to Section 40(a) of the Medical Practice Act, Act of December 20, 1985, P.L. 457, No. 112, ("Act"), 63 P.S. § 422.40(a).

Respectfully submitted,

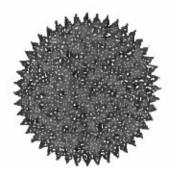
Fora J. Smith

Prosecuting Amorney
Commonwealth of Pennsylvania
Department of State
P.O. Box 69521

Harrisburg, PA 17106-9521 (717) 783-7200

DATE: April 25,2018

COMMONWEALTH OF PENNSYLVANIA COUNTY OF MERCER



I, KATHLEEN M. KLOOS, CLERK OF COURTS IN AND FOR THE COUNTY AFORESAID, THE SAME BEING A COURT OF RECORD, DO HEREBY CERTIFY THAT THE ATTACHED IS A TRUE, FULL AND CORRECT COPY OF THE ORIGINAL OF THE FOLLOWING:

- 1. Criminal Complaint
- 2. Affidavit of Probable Cause

In the matter of COMMONWEALTH VS Shawish, Hisham M.

So full and entire as it remains permanently of record in the said Court of Mercer,

Pennsylvania, at NO. 536 CR 2018.

Witness my hand and seal of the said Caurt of Morcer, Pennsylvania, this 28th day of March 2018.

Kathleen M. Klous, Clerk of Courts

EXHIBIT

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Docket Number	Date Filed	OTN/LiveSc	an Number	To	omplaint/Inc	ident Number	
CR-93-18	2/6/18	U 5519	90-5		, ,	17-3981	
Defendant Name	First	1	liddie		Last		
Defendant Name	HISHAI	4	MUSTAFA		<u> </u>	SHAWISH	

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made;
- 3. I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworm falsification to authorities.
- 4. This complaint is comprised of the preceding page(s) numbered 1 through 2.

The acts committed by the accused, as I Commonwealth of Pennsylvania and wer (Before a warrant of arrest can be is before the Issuing authority, and att	e contrary to the Act(s) of sued, an affidavit of pro	Assembly, or in violation of	the statutes cited.
February 6	, <u>Dork</u>		
•	(Date)	(Signature o	LAMBIN)
AND NOW, on this date	I certify that the ce eted before a warrant can be	implaint has been properly complissued.	pieted and verified.
			 1
35-2-02			SEAL
(Magisterial District Court Humber)	(Lesuing Autigirity)		

Docket flumber CR-93-18	2/6/18	ОПИLIVeScen Number 11 551990-5	- Ci	ompletn/incident Number	
Defendant Namo	First HISHAI	MUSTAFA MUSTAFA		SHAWISH	

STORE LIST
AFFIDAVIT OF PROBABLE CAUSE
On 11-4-14, Mercer County Children and Youth Service, cated and advised Hermitage Police Detective that a Forensic Interview was acheduled for a 7-year-old male at the Child Advocacy Center in New Castle. The 7-year-old male told a tracher at the Hermitage Artman School, Hermitage School District, that Hisham Shawish, touched his genitals when he spent the night at his home this past Saturday. The 7-year-old victim is friends with Hisham Shawish's son.
On 11-4-14 at 0930, Detective attended the Child Advocacy Center Forensic interview of the 7-year-old male victim. The video recorded Interview was conducted by the forensic interviewer. During the interview, 7-year-old male victim stated that Hisham Shawish touched his privates when he was sleeping in the same room with him during a cleep over. Victim advised that Hisham Shawish did this three separate times, touching him on his genital area over his clothing. The 7-year-old male victim demonstrated this to the interviewer.
On 11-4-14Detective interviewed Hisham Shawish at the Hernitage Police Dept. Shawish advised that 7-year-old child did sperid the night at his residence on Seturday 11-1-14. Hisham Shawish edvised that he did share the same room as 7-year-old victim until he fell asleep, but denied that he touched him in any way.
On the 22nd of May 2017 Sgt. of the Harmitage Police Department received a referral fax from Children and Youth Services regarding an allegation made to their office. The allegation was of the sexual assault of a child by the child's friend's father. The full name of the elleged perpetrator was not reported at that time. However, his first name was reported that be Hisham and it was further reported that he was a doctor.
The allegation to CYS was as follows: While staying at a friend's home in Hermitage, the victim hereby referred to as worke up without his pante on and the father of the friend was naked on top of him. See said the same thing happened to his friend who is the son of the alleged perpetrator. See said that his cousin was also victimized the same way on another occasion.
DET BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.
(Signature of Artent)
Sworn to me and subscribed before me this 6th day of Fabruary. 2018
2/6/18 Date Date , Magisterial District Judge
My commission expires first Monday of January, 2024

Docket Humber CD-93-18	Deta Filed OTN/UV 2/6/18 U	eScan Number 551990-5	Complaint/Incident Number	
Defendent Nema	First HISHAM	MUSTAFA	Lest SHAY	HEIV

AFFIDAVIT of PROBABLE CAUSE CONTINUATION

On June 21, 2017, a forensk interview was conducted at the Venango County Children and Youth Services building by The victim reported the following information: between May, 2015 and September, 2015 was already with his mother who lived on stated in the cay of Hermitage and befriended a child who lived two doors down from mother's apartment. It stated that he spent the night of the friend's residence. It stated that he was already in the Kving room of his friend's residence and was awoken by his friend's father, Hisham (Shawish) was already in the Kving room of his friend's residence and was awoken by his friend's father, Hisham (Shawish) pulling his (Included Interview of the Interview of I
(Stouthe statum)

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania, Burcau of Professional and Occupational Affairs

File No .:

18-49-02727

occupations runni

Hisham Mustafa Shawish, M.D. Respondent

Docket No:

-49-18

CERTIFICATE OF SERVICE

1, Tam J. Smith, hereby certify that I have this 20 day of 2018 caused a true and correct copy of the foregoing Petition for Immediate Temporary Suspension and Order of Temporary Suspension and Notice of Hearing to be served upon all parties of record in this proceeding in accordance with the requirements of Section 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 33.31 (relating to service by the agency).

PERSONAL SERVICE AND CERTIFIED MAIL, ELECTRONIC RETURN RECEIPT:

Hisham Mustafa Shawish, M.D.

9171 9690 0935 0158 8388 97

Tara J. Smith

Prosecuting Adomey

Commonwealth of Pennsylvania

Department of State

P. O. Box 69521

Harrisburg, PA 17106-9521

(717) 783-7200

CRICKAL

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF STATE
BEFORE THE STATE BOARD OF MEDICINE

Commonwealth of Pennsylvania,
Bureau of Professional and
Occupational Affairs

Docket No. 0871-49218

Profittion and

V.

File No. 18-49-02727

Hisham Mustafa Shawish, M.D.,
Respondent

ORDER TO CANCEL BEARING AND CLOSE CASE

AND NOW, this 18th day of May, 2018, upon consideration of Respondent's Answer to Petition for Immediate Temporary Suspension and Waiver of Preliminary Prima Facie Hearing noting that, with assistance of counsel, Respondent expressly waived the right to a prima facie hearing, but Respondent does not agree to toll the 180-day period of the immediate temporary suspension of his license, the preliminary hearing scheduled May 25, 2018 is CANCELLED.

The Order of Temporary Suspension issued by the State Board of Medicine Probable Cause Screening Panel on April 25, 2018, shall remain in effect for the 180-day maximum.

The Prothonotary will mark the above-captioned matter as CLOSED.

	BY OKUEK:	
	JENNI H. ČELAVIS HEARING EXAMINER	
Respondent's Attorney:	Ansley S. Westbrook, II, Esquire DINSMORE & SHOHL, LLP 1300 Six PPC Place Pittsburgh, PA 15222	
Prosecuting Attorney;	Tara J. Smith, Esphate Distributed 5-2	1-18
Date of Mailing:	S/21/19 Prosecution Counsel BFO Hearing Examiner Other	