

**STATE OF CONNECTICUT  
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES**

IN RE: GRAHAM/MASSEY  
ANALYTICAL LABORATORY

SETTLEMENT AGREEMENT AND  
CONSENT ORDER

**SETTLEMENT AGREEMENT**

This settlement agreement is entered into this \_\_\_\_ day of September 2002 by and among the State of Connecticut, acting through the Connecticut Department of Mental Health and Addiction Services (the "Department"); and Graham/Massey Analytical Laboratory, Inc. ("GMAL") acting here and by Daniel Massey, President of GMAL, and Daniel Massey in his individual capacity, hereinafter collectively referred to as the "parties."

WHEREAS, the Department is the single state agency responsible for administering the Behavioral Health General Assistance program in the State of Connecticut pursuant to Conn. Gen. Stat. § 17a-453a;

WHEREAS, the Department is the successor agency to the Department of Social Services ("DSS") in administering the Behavioral Health General Assistance program;

WHEREAS, GMAL previously contracted with the Department to be a provider of laboratory services participating in the Behavioral Health General Assistance program, subject to all lawful requirements established by the Department in applicable statutes and regulations;

WHEREAS, the Department conducted an audit of Behavioral Health General Assistance claims submitted by GMAL and paid by the Department during the period October 1, 1998 to December 31, 2000;

WHEREAS the Department issued a draft audit report dated November 21, 2001 in which the Department took a number of audit exceptions to GMAL's claims;

WHEREAS, GMAL disagrees with the audit exceptions;

WHEREAS, the Department conducted an exit conference on January 24, 2002, at which time GMAL presented its claims and defenses to the Department;

WHEREAS, the Department issued a final audit report dated September \_\_, 2002 ("Audit Report");

WHEREAS, there is also a dispute as to the effective date of the requirement that reimbursement for laboratory services is limited by the Department to one unit per procedure code per eligible recipient per day (the "Regulation Dispute");

WHEREAS the parties have agreed to resolve their disputes in a manner which avoids further administrative or judicial actions;

WHEREAS, there are complex legal and factual questions involving GMAL's challenges to the audit;

WHEREAS, it is expressly understood that the execution of this Settlement Agreement, any provision of this Settlement Agreement and any statement or discussions leading to the execution of this Settlement Agreement, shall not constitute or be construed to constitute any admission or adjudication of any violation of the Regulations of Connecticut State Agencies and/or the Connecticut General Statutes by GMAL, its directors, officers, agents, servants, employees or any other person or entity, specifically including Daniel Massey;

WHEREFORE, in consideration of the mutual covenants made herein, and in full and final settlement of the issues raised by GMAL, the parties agree that:

1. The audit of the period beginning October 1, 1998 ending December 31, 2000 revealed that in the Department's view money was due and owing to the State concerning the failure of GMAL to follow various DSS and Department rules and regulations, policies and fee schedules, particularly in that in the Department's view, the five drugs being tested for had to be billed as a panel. GMAL disputes the Department's position. This issue is hereinafter sometimes referred to as the "Reimbursement Dispute".

2. In order to resolve the Reimbursement Dispute with the Department through the period ending December 31, 2000, GMAL agrees to pay and the Department agrees to accept \$1,100,000 as payment in full for the period beginning October 1, 1998 and ending December 31, 2000. However, it is agreed and understood the payment the Department has and will receive in consideration of this Agreement is a compromise settlement of disputed claims pursuant to § 4-177(c) of the Conn. Gen. Statutes and shall not be construed as an admission by GMAL of any wrongdoing or guilt. Without admitting any wrongdoing or guilt in past conduct, GMAL agrees to abide by all future reporting requirements.

3. The Department shall recoup the payment from GMAL at the rate of 100% of each remittance owed to the provider, until paid in full. The amount in excess of the \$1.1 million which is currently being held by the Department shall be paid or otherwise transferred by the Department to DSS to reduce a similar obligation of GMAL's to that Department. The amount of the pending claims being held by the Department once adjudicated shall not be subject to further audit nor appeal except in the event issues of potential fraud are brought to the Department's attention. The adjudication and any disallowance of those claims shall be done in accordance with the statutes and the regulations pertaining to the requirements for processing claims and any other limitation, outside of the Reimbursement Dispute including but not limited

to eligibility of the recipient, etc. For purposes of resolving all of the disputes between the parties it is agreed that for the purposes of adjudicating the claims being held by the Department, the Department shall resolve the effective date of the one unit per procedure code requirement by recognizing \$300,000.00 of the amount in dispute in determining how much it is holding.

DMHAS will adjudicate the GMAL claims it has been holding within eight (8) weeks of the date of the Commissioner's acceptance and approval of this Settlement Agreement and Consent Order. If all of the held claims are not adjudicated within the eight-week timeframe, DMHAS shall apply the percentage of disallowance of the claims that were adjudicated in that timeframe to the remaining unadjudicated claims. DMHAS shall not hold all adjudicated claims until the end of the eight-week period prior to sending out the remittance advices to GMAL. DMHAS shall send out remittance advices concerning those held claims which have been adjudicated at least every other week during the eight-week period. For any claim which is denied, GMAL shall have two weeks from the date the remittance advice was sent to correct all deficiencies and re-submit it for reconsideration. Any denied claim not re-submitted within such two-week period will not be subject to further reconsideration. Once the pending claims have been adjudicated and \$2.2 million has been recovered, this agreement shall be satisfied and DMHAS will promptly process all subsequent claims in the ordinary course in accordance with the statutes and regulations.

4. GMAL agrees to withdraw, with prejudice, any request for a hearing or other claim to challenge the Audit Report.

5. This Agreement and Consent Order contained herein shall constitute full and final settlement of all of GMAL's items of aggrievement with respect to the audit report. GMAL agrees that this settlement agreement, once approved in writing by the Commissioner, shall

relieve the Commissioner from all responsibility to render a final decision regarding said items of aggrievement, and that this Agreement shall be in lieu of a final decision on said items.

Further, it is agreed that the Consent Order contained herein shall have the same force and effect of law as an Order entered into as a final decision after a final hearing with Findings of Fact and Conclusions of Law and that the Consent Order shall become final upon written acceptance and approval by the Commissioner. GMAL admits all requisite jurisdiction of the Commissioner to issue the Consent Order contained herein. Further, it is agreed that GMAL hereby waives all rights to seek judicial review or otherwise contest or challenge the validity of the Consent Order entered pursuant to this Agreement. The Consent Order contained herein shall be enforceable by the Department in the same manner in which a final decision of the commissioner is enforceable.

6. The parties agree that to the extent permitted by law, the amount due to the Department is non-dischargeable in bankruptcy, and further that the Department, by entering into this agreement, does not relinquish its right to raise issues of non-dischargeability in a subsequent bankruptcy filing by GMAL.

7. The parties agree that this Settlement Agreement does not constitute a final adverse action reportable to the Healthcare Integrity and Protection Data Bank (“HIPDB”) and that neither the Department nor the Office of the Attorney General shall use this Settlement Agreement as a basis for making a report to the HIPDB.

8. Upon receipt of full payment of the entire amount of the debt set forth in paragraph 2, the Department shall release and will be deemed to have released, GMAL, including GMAL’s past and present directors, officers, and employees, partners, principals, shareholders, agents, and Daniel Massey individually from any civil or administrative claims, actions, causes of action, or suits that the Department has or may have under state or federal law,

based upon the disallowance and audit findings contained in the audit report, i.e. the Reimbursement Dispute. However, the Department reserves the right to make all future decisions concerning utilization of GMAL as a provider based upon the totality of the circumstances existing at that time, including but not limited to, the conduct identified in the Audit Report.

9. Upon the signing of this Settlement Agreement, GMAL and each of its past and present officers, directors, trustees, partners, principals, shareholders, employees, agents and Daniel Massey individually, (the "Releasers"), hereby release and discharge the Department, and each of its officials, employees, and agents, (the "Releasees"), in their official and individual capacities from any and all claims, actions, causes of action or suits, arising under state law or federal law which against the Releasees, the Releasers have or may have, that arise out of, are based upon, directly or indirectly, acts or omissions of the Releasees in the course of the audit and the negotiation and conclusion of this Settlement Agreement and Consent Order concerning the Reimbursement Dispute and the Regulation Dispute.

10. This Agreement shall have no precedential effect whatsoever adverse to the Department, or GMAL and is based upon the unique set of circumstances surrounding this case.

11. All issues and potential disallowances which are not part of the Reimbursement Dispute, and all time periods subsequent to December 31, 2000, except as otherwise provided in paragraph 3, remain subject to all ordinary audit procedures in the ordinary course in accordance with the statutes and regulations and are not covered by the release set forth above in Paragraph 8.

12. This Agreement and the following Consent Order shall have no force and effect, nor shall they become a part of the official record, unless or until they are accepted in writing by the Commissioner, at which time they shall become final and effective without further notice to GMAL.

13. Each of the signatories represents that he has full power and authority to enter into this Agreement.

**SETTLEMENT AGREEMENT**

The provisions of the Settlement Agreement between GMAL and the State of Connecticut, Department of Mental Health and Addiction Services, set forth in paragraphs 1 through 13 above, are hereby incorporated by reference herein and accepted as an Order of this Department.

FOR GRAHAM/MASSEY ANALYTICAL LABORATORY, INC.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Daniel Massey, President

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Daniel Massey, Individually

FOR THE STATE OF CONNECTICUT,  
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Date: \_\_\_\_\_

By: \_\_\_\_\_  
David A. Crompton  
Agency Director of Administration  
and Finance

**CONSENT ORDER**

Accepted and approved and Consent Order entered by the Commissioner on the \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Thomas A. Kirk, Jr., Ph.D.  
Commissioner  
Department of Mental Health and  
Addiction Services

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