

*ORIGINAL*

**BEFORE THE NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE**

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2  
3 IN THE MATTER OF THE COMPLAINT  
4 AGAINST  
5 PETER J. LICATA, D.O.,  
6 RESPONDENT.

**NV STATE BOARD OF  
OSTEOPATHIC MEDICINE**  
Case No.: AD 08-05031

Filed: **MAY 05 2009**

*Barbara L.*  
**FILED**  
FOR Executive Director

**SETTLEMENT AGREEMENT AND ORDER**

**I. PARTIES**

10 This Settlement Agreement and Order ("Agreement and Order") is made by and  
11 between Lisa Miller Roche, Esq., Investigative Board Member ("Ms. Roche" or "Investigative  
12 Board Member") for the Nevada State Board of Osteopathic Medicine ("the Board") through  
13 their counsel, Dianna Hegeduis, Sr. Deputy Attorney General, of the Nevada Attorney  
14 General's Office and Peter J. Licata, D.O. ("Dr. Licata" or "Respondent") through his attorney  
15 of record, Margaret Stanish, Esq. (collectively referred to as "the Parties").  
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**II. RECITALS**

18 As a preamble to this Agreement, the Parties agree to the following:

- 19 A. WHEREAS, the Board, through Investigative Board Member Ms. Roche filed a  
20 complaint ("Complaint") in this action. The Complaint resulted from the Board's staff's  
21 determination that Dr. Licata's license renewal application did not indicate that he was  
22 charged and convicted of a federal misdemeanor on or about November 22, 2006; to  
23 wit: failure to pay over tax, in violation of Title 18, United States Code, Section 7215(a).
- 24 B. WHEREAS, the Board, through the Investigating Board Member, has more specifically  
25 alleged that (1) Dr. Licata has violated NRS chapter 633 by renewing his osteopathic  
26 medicine license without mentioning the criminal case, (2) that failing to pay over  
27 federal employment taxes may constitute unprofessional and/or unethical conduct, and  
28 (3) that Dr. Licata has further violated NRS chapter 633 by willfully failing to submit his  
fingerprints after receipt of the disciplinary complaint.
- C. WHEREAS, Dr. Licata denies the above allegations and can offer reasonable  
explanations for the alleged conduct. The parties, however, have agreed to settle this  
matter as described herein and the previously scheduled Hearing has been cancelled  
pending the execution of this Agreement by the parties.
- D. WHEREAS, the parties understand that this Agreement will be signed by the respective  
parties and will then be offered to the Board for the entire Board's approval at the  
Board meeting in May 2009, with the recommendation of the Investigating Board

Attorney General's Office  
555 E. Washington, Suite 3900  
Las Vegas, NV 89101

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- Member that this matter be settled. The Agreement shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.
- E. WHEREAS, Dr. Licata understands that the Board is free to accept or reject this Agreement and, if rejected by the Board, a formal disciplinary hearing on the complaint against Dr. Licata may be rescheduled. The Board members who review this matter for approval of this Agreement may be the same members who ultimately hear the disciplinary complaint if this Agreement is not approved by the Board. Dr. Licata hereby agrees to waive any rights he might have to challenge the impartiality of the Board to hear the disciplinary complaint, based on prior knowledge obtained by the Board through consideration of this Agreement, if after review by the Board, this Agreement is rejected. Furthermore, if the Board does not accept the Agreement, it shall be regarded as null and void.
- F. WHEREAS, Dr. Licata acknowledges that the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Agreement and Order have been met to the satisfaction of the Board.
- G. WHEREAS, and without admitting to the allegations raised by the Board and to save further costs and expenses, Dr. Licata acknowledges that the Board had a reasonable basis to believe that he failed to file a record and/or report required by law, that is, a 2007 renewal application that disclosed his 2006 misdemeanor conviction for failure to pay federal employment taxes.. Dr. Licata agrees to abide by all rules governing the practice of osteopathic medicine in the State of Nevada.
- H. WHEREAS, Dr. Licata acknowledges that once accepted by the Board, this Agreement and all associated documentation become a matter of public record.
- I. WHEREAS, Dr. Licata has had the opportunity to obtain the advice from competent counsel of his choice concerning the terms and conditions of this Agreement and the execution thereof. No coercion has been exerted upon Dr. Licata, nor have any promises been made other than those reflected in this Agreement. Dr. Licata freely and voluntarily entered into this agreement, motivated only by a desire to resolve the issues addressed herein. Dr. Licata has executed this Agreement only after a careful reading of it and a full understanding of all its terms.
- J. WHEREAS, Dr. Licata is fully aware of his rights to contest the charges pending against him. These rights include: representation by an attorney at his own expense, the right to a public hearing on any charges or allegations filed, the right to confront and cross-examine witnesses called to testify against him, the right to present evidence on his own behalf, the right to compulsory process to secure the attendance of such witnesses, the right to testify on his own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the complaint and the right to obtain judicial review of the Board's decision. Should the Board accept this Agreement, Dr. Licata voluntarily waives these rights.
- K. WHEREAS, this Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- L. WHEREAS, this Agreement and Order contains a complete description of the agreement between the parties and it supersedes any previous agreements between the parties. All material representations, understandings and promises of the parties are contained in this Agreement. Any modifications must be set forth in writing, signed by all the parties, and approved by the Board.

### III. TERMS OF THE AGREEMENT

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- A. Dr. Licata acknowledges that if the allegations raised by the Board were true, after proven at an administrative hearing and reviewed by the appropriate Courts, each such act would be a violation of NRS chapter 633 and substantial discipline would be warranted. In exchange for the Board not pursuing the administrative action and Dr. Licata not pursuing subsequent reviews by the appropriate appellate Courts, the parties have agreed to resolve the current Complaint. Dr. Licata will henceforth submit accurate and complete license renewal applications to the Board. The failure to do so will constitute a violation of this agreement and the Board may, in its discretion, bring an action to revoke Dr. Licata's osteopathic medical license.
- B. Dr. Licata agrees to pay the sum of Five Thousand Dollars (\$5,000.00) as fines and/or penalties for not reporting the lawsuit. The amount of \$500.00 shall be paid upon execution of this agreement by the parties, as it is expected that the Board will vote on this Settlement Agreement at its Board meeting scheduled for May 5, 2009. Dr. Licata also agrees to pay the additional sum of \$1,500.00 as attorney's fees and costs incurred in the prosecution of this action pursuant to NAC 633.470. The balance due and owing on the fines/penalties and the attorney's fees and costs in the total amount of \$6,500.00 shall be payable to the Board in monthly installments of \$750.00, with each such installment being due in the Board's offices on the 15<sup>th</sup> day of each month until the entire amount is paid in full, with the payments beginning on the 15<sup>th</sup> day of May, 2009.
- C. Dr. Licata further agrees and acknowledges that the Board will issue a public reprimand as part of the discipline issued as a result of the complaint filed in this matter. The public reprimand will be posted on the Board's website for a period of ninety (90) days after this agreement is approved by the entire Board and a copy of the same will be placed in the file maintained by the Board on their licensee, Peter J. Licata, D.O.
- D. Should Dr. Licata fail to satisfy and pay the indebtedness described above in a timely manner as discussed herein, Dr. Licata understands and agrees that he will be considered in default of this Agreement, and this agreement will be null and void, with the Respondent receiving credit for payments made to date. The Board may take whatever action it deems appropriate, including but not limited to reducing the balance to judgment pursuant to NRS chapter 353C.
- E. Should Dr. Licata fail to satisfy and pay the indebtedness described in Paragraph B of the Terms of the Agreement in a timely manner as discussed herein, Dr. Licata understands and agrees that the Board may pursue the remaining allegations set forth in the complaint against him as well as a new charge of failure to comply with an order of this Board.
- F. The Respondent, Dr. Licata, agrees to bear his own fees and costs, including the fees and expenses of his own attorney(s) if applicable.
- G. This Agreement and Order shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, personal representatives, assigns and successors in interest of each party.
- H. This Agreement and Order shall be construed in accordance with the laws of the State of Nevada.
- I. This settlement agreement consists of five (5) pages and embodies the entire agreement between the Board and the Respondent. It may not be altered, amended or modified without the express consent of the parties, and any

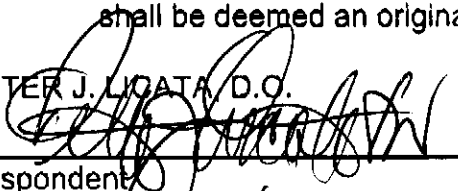
subsequent alteration, amendment, or modification shall be in writing and subject to approval by the Board.

J. In consideration for the execution of this Agreement, Dr. Licata hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada State Attorney General's Office, and each of their representatives, investigators, and employees, in their individual and representative capacity (collectively the State of Nevada Agencies) from any and all manner of actions, causes of actions, suits, debts, judgments, executions, claims, and demands whatsoever known or unknown, in law and in equity, that he may have had, now has, may have had, or claim to have against any and all of the persons and entities named in this paragraph arising out of, or by reason of, the investigation of the allegations raised in this matter, including those noted in the administrative complaint on file herein, and other matters relating thereto.

K. Dr. Licata, for himself, his heirs, executors, administrators, successors and assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada State Board of Osteopathic Medicine, the Nevada Attorney General's office and each of their members, agents and employees in their individual and representative capacities against any and all claims, suits, demands, actions, debts, damages, costs, charges, and expenses, including court costs and attorney's fees against any persons or entities as well as all liability, losses, and damages of any nature whatsoever that the persons and entities named in this paragraph shall have or may at any time sustain or suffer by reason of this investigation, this disciplinary action, this settlement or its administration.

L. This document may be prepared in multiple counterparts. Each counterpart, whether it be originally typed, a carbon, photocopy, facsimile or other type of copy, shall be deemed an original hereof if executed by each of the Parties hereto.

Attorney General's Office  
555 E. Washington, Suite 3900  
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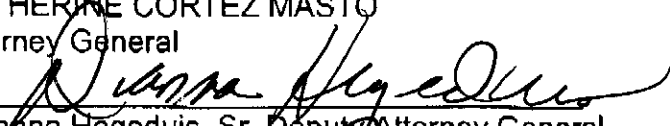
PETER J. LICATA, D.O.  
  
Respondent

WRIGHT, STANISH & WINCKLER  
By   
Margaret Stanish, Esq., Bar #4057  
Attorney for Respondent Licata

Dated: 4/23/09

Dated: 4-24-09

NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE  
BY: \_\_\_\_\_  
Lisa Miller Roche, Esq.  
Investigating Board Member  
Dated: \_\_\_\_\_

CATHERINE CORTEZ MASTO  
Attorney General  
By   
Dianna Hegeduis, Sr. Deputy Attorney General  
Counsel for the Investigating Board Member  
Dated: 4-27-09

**ORDER OF THE BOARD**

**IT IS SO ORDERED.**

**IT IS FURTHER ORDERED** that should Dr. Licata fail to comply with any terms or conditions of this Agreement, Dr. Licata will be in breach of this Agreement; and this

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subsequent alteration, amendment, or modification shall be in writing and subject to approval by the Board.

J. In consideration for the execution of this Agreement, Dr. Licata hereby releases and forever discharges the State of Nevada, the Board of Osteopathic Medicine, and the Nevada State Attorney General's Office, and each of their representatives, investigators, and employees, in their individual and representative capacity (collectively the State of Nevada Agencies) from any and all manner of actions, causes of actions, suits, debts, judgments, executions, claims, and demands whatsoever known or unknown, in law and in equity, that he may have had, now has, may have had, or claim to have against any and all of the persons and entities named in this paragraph arising out of, or by reason of, the investigation of the allegations raised in this matter, including those noted in the administrative complaint on file herein, and other matters relating thereto.

K. Dr. Licata, for himself, his heirs, executors, administrators, successors and assigns, hereby indemnifies and holds harmless the State of Nevada, the Nevada State Board of Osteopathic Medicine, the Nevada Attorney General's office and each of their members, agents and employees in their individual and representative capacities against any and all claims, suits, demands, actions, debts, damages, costs, charges, and expenses, including court costs and attorney's fees against any persons or entities as well as all liability, losses, and damages of any nature whatsoever that the persons and entities named in this paragraph shall have or may at any time sustain or suffer by reason of this investigation, this disciplinary action, this settlement or its administration.

L. This document may be prepared in multiple counterparts. Each counterpart, whether it be originally typed, a carbon, photocopy, facsimile or other type of copy, shall be deemed an original hereof if executed by each of the Parties hereto.

PETER J. LICATA, D.O.  
*[Signature]*  
Respondent  
Dated: 4/23/09

WRIGHT, STANISH & WINCKLER  
By *[Signature]*  
Margaret Stanish, Esq., Bar #4057  
Attorney for Respondent Licata  
Dated: 4-24-09

NEVADA STATE BOARD OF  
OSTEOPATHIC MEDICINE  
BY *[Signature]*  
Lisa Miller Roche, Esq.  
Investigating Board Member  
Dated: 4/27/09

CATHERINE CORTEZ MASTO  
Attorney General  
BY *[Signature]*  
Diana Hegeduis, Sr. Deputy Attorney General  
Counsel for the Investigating Board Member  
Dated: 4-27-09

**ORDER OF THE BOARD**

IT IS SO ORDERED.

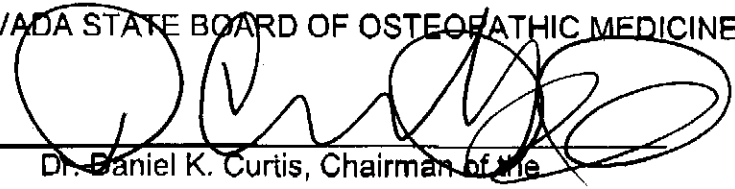
IT IS FURTHER ORDERED that should Dr. Licata fail to comply with any terms or conditions of this Agreement, Dr. Licata will be in breach of this Agreement; and this

1 Agreement will be null and void. The Board may take whatever action it deems appropriate,  
 2 including but not limited to proceeding with the administrative action against Dr. Licata.  
 3 Should this Agreement become null and void by Dr. Licata's failure to comply with terms  
 4 or conditions of this Agreement, the Board may not only pursue an administrative action  
 5 against Dr. Licata, but the Board may also seek the maximum fees, fines, and costs.

6 DATED this 5 day of May, 2009.

7 NEVADA STATE BOARD OF OSTEOPATHIC MEDICINE

8  
 9 BY:



10 Dr. Daniel K. Curtis, Chairman of the  
 11 Board

12 Submitted by:  
 13 CATHERINE CORTEZ MASTO  
 14 Attorney General  
 15 Dianna Hegeduis, #5616  
 16 Sr. Deputy Attorney General  
 17 555 E. Washington Avenue, Suite 3900  
 18 Las Vegas, Nevada 89101  
 19 Phone (702) 486-3894  
 20 Fax (702) 486-3416  
 21 Attorneys for Respondent State Agency/IBM

Attorney General's Office  
 555 E. Washington, Suite 3900  
 Las Vegas, NV 89101