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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - BERGEN COUNTY

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IN RE NEW JERSEY STATE POLICE : CRIMINAL ACTION  
OFFICE OF FORENSIC SCIENCES : AFFIDAVIT  
NORTH REGIONAL LABORATORY :  
STATE OF NEW JERSEY :  
COUNTY OF MERCER : SS

MICHAEL J. WILLIAMS, of full age, being duly sworn according to law upon his oath  
deposes and says:

1. I am an Assistant Attorney General with the Office of the Attorney General,  
Division of Criminal Justice (DCJ). I am Counsel to the Director, and have been involved in  
this matter. As such, I am familiar with the facts set forth herein.

2. The New Jersey State Police Office of Forensic Sciences has its North Regional  
Laboratory in Little Falls, New Jersey. The laboratory is certified by the American Society of  
Crime Laboratory Directors/Laboratory Accreditation Board, a national non-profit professional  
society of crime laboratory directors and forensic science managers. In 2005, Kamalkant Shah  
began working in that laboratory as a forensic scientist.

3. Currently and during the time period relevant herein, suspected drugs that law enforcement officers seize in 13 counties - Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren - are submitted to the New Jersey State Police Office of Forensic Sciences North Regional Laboratory for analysis.

4. At the laboratory, a forensic scientist analyzes the suspected drugs, and issues a certified laboratory report documenting his or her findings.

5. Every report is subjected to a peer review and an administrative review. During the administrative review, the peer review elements are repeated.

6. A peer review is solely a paper review conducted on all laboratory reports and case file examination records. An experienced forensic scientist other than the one who actually examined the drug evidence, certified through training and experience to review all laboratory reports and records, conducts the review. That scientist checks all documents, the appropriateness of the examination conducted, and the adequacy and documentation of reference materials used. He or she also determines if the laboratory reports contain all required information, if the latest approved forms were used, and if the conclusions reached are reasonable, unambiguous, supported with documentation, and accurately state the findings. The physical evidence itself, however, is not re-examined.

7. An administrative review also is solely a paper review conducted to ensure that the laboratory reports are complete, concise, and conform to laboratory policy. As with peer review, a scientist other than the one who examined the drug evidence conducts the administrative review. That scientist checks for errors, confirms that the agency information (case numbers, agency location, etc.) is correct, confirms the accuracy of the laboratory item

numbers and for the presence of the analyst's signature, and documents any corrections. Again, the physical evidence itself is not re-examined.

8. In early December 2015, Shah was observed spending insufficient time analyzing a substance in one case to determine if it was marijuana. This practice is colloquially referred to as "dry labbing" – reporting an anticipated result without properly analyzing a suspected drug.

9. In December 2015, Shah was removed from case work at the laboratory. He has been suspended since January 2016.

10. The "dry labbing" was reported by the laboratory to DCJ. DCJ determined to disclose this incident to the parties in all cases that Shah examined since he began his work at the laboratory in 2005.

11. In January and February 2016, DCJ sent letters to all County Prosecutors and to members of DCJ's potentially affected trial bureaus disclosing Shah's "dry labbing" and requiring those prosecutors to so notify defendants in all cases where Shah either analyzed the evidence or had testified.

12. DCJ has asked prosecutors to immediately re-submit for re-testing the drug evidence in two types of cases - those where a defendant is either incarcerated and/or is pending trial and Shah was the forensic scientist who examined the evidence.

13. To date, re-testing has been completed in 160 cases. In every case, the laboratory has confirmed that the suspected drug samples Shah examined had in fact been accurately identified by Shah.

14. Additionally, DCJ asked the New Jersey State Police Office of Forensic Sciences to compile a list of every case that Shah had reviewed throughout his career at the laboratory.

15. In March 2016, DCJ disclosed to the Administrative Office of the Courts (AOC) and to the Public Defender (PD) (1) a list of all 7,827 cases Shah had examined during his career at the laboratory; (2) a list of all 2,592 cases other forensic scientists examined that Shah reviewed; and (3) a chart breaking down by county and year the cases Shah examined. DCJ and County Prosecutors continue to gather case and defendant identifiers in all of these matters, and continue to work with the defense bar and AOC to identify potentially impacted cases.

16. On April 6, 2016, DCJ, on notice to the PD, moved to have the Supreme Court of New Jersey appoint a Special Master to manage any and all applications or litigation in adjudicated Shah cases. The PD joined the request. DCJ represented to the Supreme Court that this forum would best serve the ends of efficiency and uniformity in addressing such cases.

17. On April 25, 2016, the Supreme Court of New Jersey issued an administrative order establishing statewide centralized case management of all litigation seeking relief in adjudicated cases where it is alleged that Shah failed to properly conduct a laboratory analysis, a peer review, or an administrative review of purported drug evidence. "Adjudicated cases" are defined as those (1) where a defendant is incarcerated or already has completed a sentence of incarceration and (2) involving other adjudications such as conditional discharges, pretrial intervention, downgrades, dismissals, or probation. The Supreme Court established statewide case management to better process these cases, to provide greater consistency and efficiency, and to minimize conflicts and delays. The Court designated the Honorable Edward A. Jerejian, J.S.C., as the sole judge to handle all litigation concerning charges, arrests, and convictions in adjudicated Shah cases. Judge Jerejian's designation does not apply to pending cases, which will be heard in the vicinage or municipality of origin. Finally, the Judge will report to the Supreme

Court as soon as practicable on whether statewide management of these cases remains beneficial and in the public interest or whether they would be better managed at the vicinage or municipal level.


18. The following day, the Acting Administrative Director of the Courts issued a Notice to the Bar regarding the Supreme Court's administrative order. DCJ also separately notified the County Prosecutors of that Notice to the Bar.

19. On April 29, 2016, DCJ sent to the PD and to Your Honor (1) the prior chart breaking down the 7,827 cases examined by county and year; (2) county-by-county lists of those cases with case identifiers; (3) a list of all 970 cases that Shah peer reviewed; and (4) a list of all 1,622 cases that Shah administratively reviewed.

20. The AOC, PD, and DCJ continue to work collaboratively to compile spreadsheets of all affected cases with identifying information in an effort to fairly, effectively, and uniformly resolve all matters regarding them that arise before the Special Master. As cases are fully identified, notices will be sent out to those defendants and defense counsel, if any.

  
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Michael J. Williams  
Assistant Attorney General

Sworn and subscribed before  
me this 28<sup>th</sup> day of June, 2016.

  
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Ian Kennedy  
An Attorney-At-Law of New Jersey