

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HUMAN SERVICES

In the Matter of the Revocation of
the Family Child Care License of
Elizabeth Holmberg

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

The above-entitled matter came on for hearing before Barbara L. Neilson, Administrative Law Judge, on September 1, 2004, at 10:00 a.m. in the Olmsted County Attorney's Office in Rochester, Minnesota. The hearing was held pursuant to a Notice of Hearing issued by the Department of Human Services on June 23, 2004. The OAH record closed at the conclusion of the hearing on September 1, 2004.

Geoffrey A. Hjerleid, Senior Assistant Olmsted County Attorney, 151 Fourth Street S.E., Rochester, MN 55904-3710, appeared on behalf of the Department of Human Services and Olmsted County Community Services. The Licensee, Elizabeth Holmberg, 2010 – 42nd Street N.W., Rochester, MN 55901, appeared on her own behalf.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject, or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the Commissioner. Parties should contact the Office of the Commissioner of the Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155, to ascertain the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the Department is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

STATEMENT OF ISSUES

The issue presented in this case is whether the family child care license of the Licensee should be revoked based upon her failure to report additional household members and initiate background studies on three individuals, her repeated violation of capacity and age distribution requirements, her failure to ensure that a second caregiver received training on reducing the risk of sudden infant death syndrome, and her transportation of children in care in an unsafe manner by failing to use safety restraints.

The Administrative Law Judge concludes that it should.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. The Licensee has been licensed as a Class A Family Child Care Provider since August of 2002. A Class A license permits a total of ten children, with a maximum of six children under school age. The Licensee provides child care at her residence in Rochester, Minnesota.^[1]

2. The need for background studies is discussed during orientation sessions with family child care providers and consent forms are provided to applicants for licensure.^[2]

3. The Licensee's husband was charged on July 21, 2002, with fifth degree assault and criminal damage to property based on an incident that occurred on July 19, 2002, involving the Licensee's sister.^[3] On September 12, 2002, the County received a complaint that the Licensee's husband had a recent assault charge. The Olmsted County licensing worker ran another background check on the Licensee's husband, found the fifth degree assault charge, and obtained a copy of the police report.^[4] On October 16, 2002, the Licensee told the licensing worker that the charges against her husband had been dismissed.^[5] In addition, in a Licensing Checklist signed by the Licensee on June 15, 2003, she indicated that no one in her household had been charged with or convicted of a felony or misdemeanor, or involved in any court services for any reason since her last licensing visit.^[6]

4. The Licensee's husband in fact pled guilty to fifth degree assault pursuant to *North Carolina v. Alford* on April 30, 2003. The remaining charges were dismissed under the plea agreement. Imposition of sentence was stayed by the Olmsted County District Court for a period of one year on the condition that the Licensee's husband pay

a \$350 fine, pay restitution for the benefit of the victim, and remain law-abiding without any similar offenses.^[7]

5. On July 30, 2003, the Licensee's husband requested reconsideration of the disqualification determination that was issued by the State based upon the assault conviction.^[8] By letter dated September 16, 2003, the Department of Human Services informed the Licensee's husband and the Licensee that, while the disqualification of the Licensee's husband had not been set aside, a variance had been granted to the disqualification for a period of one year or until the Licensee's license expired, whichever came first, as long as there were no other disqualifying factors, there were no recurrences of the same or similar incidents, he was not used as a substitute caregiver, and he was not allowed unsupervised contact with children enrolled in care.^[9]

6. Both of the Licensee's adult sons were present during a licensing visit made by the County licensing worker in July of 2002. During another home visit on August 27, 2002, one of the two sons was again present. The licensing worker directly asked the Licensee whether the Licensee's sons lived in her home, and the Licensee told the licensing worker that they did not.^[10]

7. On September 12, 2002, the County received a complaint that the Licensee's two adult sons lived in the Licensee's home and that one had a criminal record. The licensing worker left a consent form and two residence history forms with the Licensee for her sons to complete and asked that the forms be returned to her as soon as possible. At that time, the Licensee did not deny that both sons were living in her home or contend that the background checks were not needed. The licensing worker called the Licensee when she did not immediately receive the forms back. The Licensee returned the two residence history forms in the mail a few days later, but not the signed consent form. The licensing worker called the Licensee again and the Licensee said that she thought she had sent the form. On October 7, 2002, the licensing worker sent the Licensee a Correction Order noting that the County did not have signed consent forms for two adults who live or visit the home regularly, in violation of Minn. R. 9502.0335, subp. 6C. She also provided the Licensee with an additional consent form and a letter stating that she would recommend negative action if she did not receive the signed consent form by October 11, 2002. The licensing worker received the signed consent form on October 16, 2002.^[11]

8. By letter dated October 14, 2002, the County licensing worker notified the Licensee that a state in which one of her sons had lived required a completed fingerprint card in order to process the background check, and included information about the process to have this done. By letter dated January 8, 2003, the County licensing worker notified the Licensee that she still had not received the fingerprint card. The letter notified the Licensee that state law permitted a license to be revoked or suspended if a person living in the residence or present during the hours children were in care refused to give written consent for the disclosure of criminal history records. The licensing worker stated that the background study regarding the Licensee's son had to be completed as soon as possible and requested that the completed fingerprint card be sent to her by February 7, 2003.^[12]

9. The background checks regarding the Licensee's sons were eventually processed and the County learned that one of the Licensee's sons had a disqualification based upon alleged theft and a felony conviction of receiving stolen property. He requested reconsideration, and a variance was granted in March of 2003 to permit the son to remain in the home despite the disqualification. To the knowledge of the licensing worker, that son no longer resided in the Licensee's home by March of 2004.^[13]

10. After the Licensee received her Class A license, she requested that the County issue a variance to allow her to have seven children under school age rather than six. The Department granted the Licensee a variance on November 15, 2002, allowing the Licensee to care for seven children under school age until April 30, 2003, on the condition that a second adult caregiver be present. The Licensee was told that the second adult caregiver to be used under the variance would need training in the reduction of sudden infant death syndrome ("SIDS"). The Licensee informed the County that her adult daughter would serve as the second caregiver.^[14]

11. The County received a report in February of 2003 that the Licensee's son's girlfriend was living in the home. During a visit on March 4, 2003, the Licensee admitted that her son's girlfriend had moved into her home at the beginning of January but said that the girlfriend would soon be moving out. The Licensee did not tell the licensing worker that she believed that no background study was needed with respect to her son's girlfriend. The licensing worker sent the Licensee a Correction Order dated March 4, 2004, noting a violation of Minn. R. 9502.0335, subp. C, because the Licensee had not submitted a background check form for her son's girlfriend, along with a background check and residence history forms for the girlfriend to complete. The Correction Order specified a March 12, 2003, deadline for correction.^[15]

12. By letter dated March 31, 2003, the County licensing worker notified the Licensee that a signed consent form was still needed for her son's girlfriend as well as a signature on the residence history form that had been sent to the Licensee. The licensing worker reminded the Licensee that a Correction Order had been issued for this to be completed by March 12, 2003, and stated that failure to report changes in household membership was a serious licensing violation. The letter warned the Licensee that further licensing violations could result in a negative licensing action. Another Correction Order dated March 31, 2003, noting that the County did not yet have a signed background check form for the girlfriend, was enclosed.^[16] The Licensee eventually responded, indicating in her comments that she had phoned the County on March 21, 2003, to tell them that the girlfriend had moved out over the weekend.^[17]

13. The March 31, 2003, letter sent by the licensing worker to the Licensee also reminded the Licensee of the need for her daughter, as the second caregiver in the home, to complete SIDS Reduction training. The licensing worker enclosed a training packet with the letter and requested that the questionnaire be returned by April 10, 2003.^[18]

14. A Correction Order was issued to the Licensee on April 7, 2003, noting that she had eight preschoolers in care on January 9 and 21, 2003, according to food program records, and thus was over capacity on those dates, in violation of Minn. R. 9502.0367. The Correction Order was returned by the Licensee on April 9, 2003. The Licensee indicated that a variance had been received on March 5 and the Licensee had been told that everything was okay.^[19]

15. The Licensee's variance permitting her to care for seven children under school age expired on April 30, 2003. A Correction Order was issued to the Licensee on June 24, 2003, noting that seven children under school age were present in her day care from May 1, 2003, until June 10, 2003, in violation of Minn. R. 9502.0367. The Correction Order also noted that the Licensee's daughter had not completed SIDS Reduction training required of all caregivers despite being approved as a second caregiver in the November 2002 variance, in violation of Minn. Stat. § 245A.144 and Minn. R. 9502.0315.^[20]

16. On September 29, 2003, a County staff person read in the newspaper that the Licensee was convicted of speeding (going 48 in a 30-m.p.h. zone) and violation of child restraint requirements. The County licensing worker received a copy of the District Court report from the newspaper, obtained a copy of the ticket from the police department, and determined based upon food program information that two preschoolers were in care on August 9, 2003.^[21]

17. On October 24, 2003, the County licensing worker visited the Licensee's home. The Licensee told the licensing worker that three children were in care on August 9, 2003. She said that one child seated in the very back of the van unhooked her car seat and climbed out. The Licensee said that she did not know that the child was out of the car seat until she was pulled over by the officer. However, the ticket stated that two preschoolers were out of their car seats at the time the ticket was issued.^[22] The licensing worker issued a Correction Order on October 24, 2003, noting a violation of Minn. R. 9502.0435, subp. 9(A) and (B), for transporting preschoolers without restraining them in car seats. The Licensee responded that she used car seats at all times and reiterated that she did not know at the time that one child had unfastened her seat belt. She indicated that she no longer transported children unless accompanied by another adult.^[23]

18. By letter dated October 24, 2003, the County licensing worker informed the Licensee that she still had not received the signed Correction Order that was issued on June 24, 2003. She asked that the Licensee complete the SIDS Reduction training documentation relating to her daughter and return it to her as soon as possible. She indicated that the Licensee was in compliance at that point regarding capacity but said that, should a particular family return to the day care, the Licensee would be over capacity by three children under preschool age unless they came only when the three other preschoolers were not in care.^[24]

19. The Licensee did not return the June 24, 2003, Correction Order until October 29, 2003. She indicated in the "how corrected" column of the Correction Order

that she did not remember being over capacity on the cited dates and stated that her daughter took the SIDS Reduction test in June.^[25]

20. By letter dated October 29, 2003, Olmsted County Community Services recommended that the Department of Human Services make the Licensee's license conditional. The letter indicated that the recommendation was being made because (1) the County had received a report that the Licensee's two adult sons resided in the home, the Licensee had previously denied that they lived there, one son did not provide fingerprints until nearly four months after the initiation of the study, and the other son had a disqualification "of preponderance of theft" and a felony conviction of receiving stolen property for which a variance was granted; (2) the Licensee told the County licensing worker on October 16, 2002, that the criminal charges against the Licensee's husband had been dismissed, which was not the case; (3) after the Licensee received a variance until April 30, 2003, to care for seven children under school age on the condition that a second adult caregiver be present, the Licensee's second caregiver (her daughter) failed to complete SIDS reduction training despite reminders sent to the Licensee on March 31, 2003, and the issuance of a correction order on June 27, 2003; (4) food program records showed that the Licensee was overcapacity on January 9 and 21, 2003, by having eight preschoolers present, and was overcapacity from May 6 to June 10, 2003, by having seven children under school age present, resulting in the issuance of two correction orders; (5) two correction orders also were issued in March 2003 because the Licensee had failed to report that the Licensee's son's girlfriend began living in the Licensee's home in January 2003; and (6) the Licensee was pulled over and ticketed on August 9, 2003, for not having two preschool children restrained and admitted during a home visit on October 24, 2003, that one child was not restrained, resulting in the issuance of another correction order. The County noted that a total of six correction orders had been issued to the Licensee during a fourteen-month period. The County also alleged in its letter that the Licensee had, on two occasions, given false information to the agency regarding her husband's conviction by telling the licensing worker on October 16, 2002, that the charges had been dismissed and by not including the conviction in the Licensing Checklist signed by the Licensee on June 15, 2003.^[26]

21. By letter dated March 18, 2004, based upon new information that had been received, the County amended its recommendation that the Licensee's license be made conditional to ask instead that the license be revoked. The letter noted that the licensing worker had had a lengthy discussion with the Licensee on October 24, 2003, concerning capacity requirements associated with her Class A license. However, based upon information received by the County in March of 2004 from the food program, the County concluded that the Licensee was overcapacity seven days in November of 2003, three days in December of 2003, and seven days in February of 2004. The County concluded that, of these 17 days, the Licensee was overcapacity by one child on three days, overcapacity by two children on nine days, and overcapacity by three children on five days. The Licensee also enrolled three children despite the fact that the licensing worker had told her that their enrollment would put her overcapacity, and also enrolled another school-age child on February 1, 2004.^[27]

22. On June 9, 2004, the Department issued Licensee an Order of Revocation. The Order of Revocation cited the Licensee's failure to report to the agency and initiate background studies on three additional individuals living in her home, her violation of the capacity and age distribution requirements of her license and applicable rules on multiple occasions, her failure to ensure that her second caregiver had SIDS training as required prior to assisting in the care of infants, and her transportation of children in care in an unsafe manner by failing to ensure that two preschoolers were restrained by a seat belt or child passenger restraint system as required. The Department also noted that two individuals in the Licensee's household were disqualified from any position allowing direct contact with, or access to, persons receiving services from DHS-licensed programs (the variances previously granted to these individuals' disqualification factors were terminated in the June 9, 2004, letter). The Order informed the Licensee of her right to appeal the revocation and her right to a contested case hearing.^[28]

23. The Licensee appealed the Department's Order of Revocation by letter dated June 18, 2004.^[29] In her letter of appeal, the Licensee alleged that all of the infractions of which she was accused had been rectified for some time. She also asserted that she was not, to her knowledge, overcapacity; she was confused about the need for background checks and thought the requirement only applied to those 18 and over; and no risk was posed by the disqualified individuals because one had moved out and the other was not left alone with the children. She enclosed with her letter of appeal a letter from a parent whose children attended the day care supporting her continued licensure.^[30]

24. The Department thereafter issued a Notice of and Order for Hearing dated June 23, 2004, setting the hearing to take place on September 1, 2004.

25. A Protective Order was issued in this matter on August 3, 2004, to guard the confidentiality of not-public data involved in this case.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Minnesota Department of Human Services have authority to consider and rule on the issues in this contested case hearing pursuant to Minn. Stat. §§ 14.50 and 245A.08.

2. The Department gave proper notice of the hearing, and all relevant substantive and procedural requirements of law or rule have been fulfilled.

3. Minn. Stat. § 245A.07, subd. 3, allows the Commissioner to suspend or revoke a license, or impose a fine if a license holder fails to comply with the applicable laws or rules. Notice of any such action must be given by certified mail and must state the reasons for the sanction.

4. Under Minn. Stat. § 245A.08, subd. 3, the burden of proof first lies with the Commissioner, who may demonstrate reasonable cause for the action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. If the Commissioner demonstrates that reasonable cause existed, the burden shifts to the license holder to demonstrate by a preponderance of the evidence that she was in full compliance with those laws or rules allegedly violated, at the time that the Commissioner alleges the violations occurred.

5. Under Minn. Stat. § 245A.07, if a license holder fails to comply with a correction order or conditional license, the Commissioner is authorized to impose a fine and order other licensing sanctions.

6. Minn. Stat. § 245A.07, subd. 1, requires the Commissioner to consider “the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights” of those persons in a licensee’s program before applying sanctions under Minn. Stat. § 245A.07.

7. Minn. R. 9502.0375 requires all daycare providers to inform the licensing agency within 30 days of any change in the regular membership of the household.

8. Minn. Stat. § 245C.03, subd. 1(2) requires that background studies be conducted regarding “an individual age 13 and over living in the household where the licensed program will be provided.”

9. Minn. R. 9502.0367 (A) specifies that, for a Class A family day care license, a total of ten children may be in care with one adult caregiver. Of the ten children, not more than six may be under school age.

10. Minn. Stat. § 245A.144 requires that license holders “must ensure that before staff persons, caregivers, and helpers assist in the care of infants, they receive training on reducing the risk of sudden infant death syndrome”

11. Under Minn. Stat. § 245A.18(a), when family child care children are transported, “children four years old and older must be restrained by a properly adjusted and fastened seat belt and children under age four must be properly fastened in a child passenger restraint system meeting federal motor vehicle safety standards.”

12. The Commissioner has advanced evidence establishing reasonable cause to believe that the Licensee engaged in violations of the rules and statutes governing her family child care license. Specifically, the Commissioner has established reasonable cause to believe that the Licensee (1) failed to notify the local agency of three additional household members within 30 days and failed to initiate background studies on these individuals, in violation of Minn. Stat. § 245C.03 and Minn. R. 9502.0375, subd. 2; (2) violated the capacity and age distribution limits of her license on January 9, January 21, and May 1 through June 10, 2003, and on seven additional days in November 2003, three days in December 2003, and seven days in February 2004, in violation of Minn. R. 9502.0367(A); failed to ensure that her second caregiver

had SIDS training prior to assisting in the care of infants, in violation of Minn. Stat. § 245A.144; and transported children in care on August 9, 2003, without ensuring that they were restrained by a seat belt or child passenger restraint system, in violation of Minn. Stat. § 245A.18. In addition, given the Department's termination of the variances to their disqualification factors previously granted to the Licensee's husband and son, one or possibly two individuals in the Licensee's household are disqualified from any position allowing direct contact with, or access to, persons receiving services from DHS-licensed programs.

13. The Licensee has failed to demonstrate by a preponderance of the evidence that she was in full compliance with the above rules and statutes governing her family child care license when the violations alleged by the Department occurred.

14. These Conclusions are reached for the reasons discussed in the Memorandum below, which is incorporated in these Conclusions by reference.

Based upon the foregoing Conclusions, and for the reasons set forth in the Memorandum below, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Order of Revocation issued by the Department of Human Services be affirmed.

Dated: October 1, 2004.

/s/ Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge

Reported: Tape recorded (1 tape). No transcript prepared.

MEMORANDUM

The Commissioner presented the testimony of the County licensing worker, her notes, and the Correction Orders and letters issued to Licensee to show that Licensee did not comply with the rules and laws applicable to her family child care. The testimony and documentary evidence submitted by the County and State at the hearing demonstrated that the Licensee repeatedly failed to report additional household members, failed to promptly submit consent forms and other materials necessary to initiate background studies on those individuals, and failed to comply with age distribution and capacity requirements of her license. Moreover, the Licensee failed to ensure that her adult daughter obtained SIDS training before caring for infants under the variance she was granted, failed to respond in an expeditious manner to correction orders issued by the County, misled the County licensing worker regarding the criminal

charges brought against her husband and his later conviction, and was ticketed for failing to ensure that the preschoolers in her care were properly restrained in her vehicle. Accordingly, the Commissioner established that reasonable cause existed to revoke the license.

At the hearing, the Licensee made little attempt to explain her repeated failure to comply with the rules and laws governing her family child care home. The Licensee's assertion that she was not aware of the reporting requirement for household members applying to those under 18 also is not convincing in light of the topics covered during provider training and the number of correction orders issued to the Licensee on the subject, and thus does not excuse her failure to report or promptly provide materials necessary to initiate background studies. Her contention at the hearing that only one son ever lived in her home is not persuasive in light of her failure to make such a claim when the licensing worker provided the pertinent paperwork relating to both sons. Due to the frequency of discussions of capacity requirements the County licensing worker had with the Licensee over the course of the Licensee's licensure as a family child care provider, the Administrative Law Judge is not persuaded by the Licensee's allegations that she was not aware that she was over the capacity requirements. The Licensee's testimony that she always called the licensing worker to let her know when she was going to be over-capacity and that the licensing worker gave her approval is not persuasive in light of the testimony of the licensing worker to the contrary and the numerous correction orders issued by the licensing worker citing over-capacity violations. Although the licensing worker acknowledged that she has, in emergency situations, approved over-capacity for a period of 8 hours or less, she provided credible testimony that she cannot recall ever approving over-capacity for the Licensee and she would never approve over-capacity over the phone for a period of days but would require a license holder to fill out a formal request for a variance in such instances.

The Licensee's contention that the SIDS training took so long because the licensing worker was on vacation and she had to contact another County employee for the pertinent training information also does not excuse her failure to comply with the training requirement until long after the variance permitting a second caregiver had expired. It is evident that, at a minimum, the Licensee was provided with a SIDS training packet with the licensing worker's letter of March 31, 2003, and was asked to return the documentation by April 10, 2003. A Correction Order issued on June 24, 2003, with respect to the failure to complete SIDS Reduction training inexplicably was not returned by the Licensee until October 29, 2003, after the licensing worker sent another reminder. Finally, the Licensee's allegation that only one child was out of her car seat in August of 2003 is inconsistent with the information on the ticket she was issued. Because child care providers are responsible for ensuring that children remain secure in their car seats, it makes sense for them to make sure that the children in their vehicles are in fact secured and that they stop their vehicles and insist on compliance if children unbuckle themselves.

The State must be able to assume that child care providers are familiar with the rules governing their operations and will take steps to comply with those rules. The particular rule violations involved in this matter--the violations of capacity requirements,

the failure to report household members and obtain necessary background checks, the failure to ensure children use proper safety restraints when they are transported, and the failure to obtain SIDS Reduction training for a second caregiver--are of obvious importance to the health and safety of children in care. Revocation is appropriate here because of the numerous violations that occurred over the fairly short period of the Licensee's licensure, the repeated nature of many of those violations, and her general pattern of not responding in an expeditious fashion to the statutory and rule violations that were brought to her attention. Despite the fact that the County licensing worker clearly conveyed the seriousness of the violations to Licensee, the Licensee did not respond in an appropriate fashion. The chronic nature of these repeated violations demonstrates that Licensee does not take the requirements imposed on child care providers seriously.

In summary, the Department has demonstrated that reasonable cause existed for revoking the Licensee's family child care license based upon the numerous substantiated violations discussed above. The Licensee has failed to show by a preponderance of the evidence that she fully complied with the rules and statutes governing her family child care license. The Administrative Law Judge is persuaded that, given the frequency of repeated violations during the relatively short period of time that the Licensee has been licensed, a lesser negative action is not appropriate. Therefore, based on the violations of the rules cited above, the Administrative Law Judge recommends that the revocation of the Licensee's family child care license be affirmed.

B.L.N.

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- ^[1] Exs. 1, 7; Testimony of Angie Jensen.
 - ^[2] Testimony of Jensen.
 - ^[3] Ex. 4.
 - ^[4] Ex. 7, Attachment 1.
 - ^[5] Ex. 7, Attachment 1; Testimony of Jensen.
 - ^[6] Ex. 7, Attachment 13.
 - ^[7] Exs. 2, 7 (Attachment 4); Testimony of Jensen.
 - ^[8] Ex. 3.
 - ^[9] Exs. 4 and 5.
 - ^[10] Ex. 7; Testimony of Jensen.
 - ^[11] Ex. 7, Attachments 1, 2; Testimony of Jensen.
 - ^[12] Ex. 7, Attachment 3.
 - ^[13] Ex. 7; Testimony of Jensen.
 - ^[14] Ex. 7, Attachments 5, 6; Testimony of Jensen.
 - ^[15] Ex. 7, Attachments 8 and 9; Testimony of Jensen.
 - ^[16] Ex. 7, Attachments 5, 10.
 - ^[17] Ex. 7, Attachment 9.
 - ^[18] Ex. 7, Attachments 5, 10.
 - ^[19] Ex. 7, Attachment 7.
 - ^[20] Ex. 7, Attachment 6.
 - ^[21] Ex. 7, Attachment 11.

- [\[22\]](#) Ex. 7, Attachment 11; Testimony of Jensen.
- [\[23\]](#) Ex. 7, Attachment 12; Testimony of Jensen.
- [\[24\]](#) Ex. 7, Attachment 15.
- [\[25\]](#) Ex. 7., Attachment 6.
- [\[26\]](#) Ex. 6.
- [\[27\]](#) Ex. 7, Attachment 14.
- [\[28\]](#) Ex. 9.
- [\[29\]](#) Exs. 10, 11.
- [\[30\]](#) Ex. 10.