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#604

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April 25, 1996

U.S. v. District of Columbia



NH-DC-001-025

The Honorable Thomas F. Hogan
U.S. District Court for the District of Columbia
333 Constitution Avenue, NW, 4th Floor
Washington, DC 20001

Re: The United States of America v. The District of Columbia, et al., Civ. No. 95-948, TFH,
D.C. Village Nursing Home (DCV), Court Order, July 6, 1995;
November 7, Order Modifying Stipulated Order of July 6, 1995;
Court Order, December 22, 1996;
Court Order, February 23, 1996

Dear Judge Hogan:

This letter to the Court is an update since my April 3 letter to the Court on the outplacement of DCV residents to their new homes.

As of today, there are 88 residents at DCV remaining to be outplaced. Of this number, 42 residents have no identified placement site to date.

Ms. Corrie Kemp is the leader in the outplacement process at DCV. She is a dedicated professional and is active in her advocacy on behalf of the residents and in ensuring, to the best of her ability, that the residents individualized needs will be met.

All of the defendants both within and outside DCV, from those designated by Mr. Vernon Hawkins, Director, Department of Human Services, and Dr. Harvey Sloane, Commissioner of Public Health for the District of Columbia, must continue to give Ms. Kemp their undivided support so she may be able to guide the remaining outplacements in the professional manner in which she has been operating, and for which she has tremendous capabilities. In addition, Ms. Catherine Carroll must also be given continued and undivided support to carry on her fine work.

Residents Identified for Independent Living

Currently there are three residents to be outplaced into the community. There are two major concerns, one of which is most immediate and critical.

(1) Immediate Need for CASH

The residents will not have access to their Supplemental Security Income (SSI) checks until after they are discharged and living independently. The rent for the residents will be \$132 and they will receive food stamps. It is not clear how long it will take until they directly receive their checks; however it is estimated by some this will take two weeks to a month, although the business office at DCV estimates longer. Therefore, these three residents, Mr. C.W., Ms. M.M., and Mr. M.W., upon discharge will need a sufficient supply of money for down payment, rent, telephone, food, and other basic supplies for living.

Ms. Peggy Graves, detailed by Mr. Vernon Hawkins from the Department of Human Services of the District of Columbia, is preparing a financial needs statement for each resident. Mr. C.W. is scheduled to be discharged to his new home this week. Ms. M.M. is scheduled to be discharged to her new home May 1. A home for Mr. M.W. has not yet been identified. The residents cannot be discharged without this subsistence level of cash, without which Mr. C.W. and Ms. M.M. face losing their apartments. This problem is of great concern to all those involved in planning.

Mr. Vernon Hawkins was made aware of this problem in a meeting April 12 with the Court Monitor, Dr. Harvey Sloane, Ms. Corrie Kemp, Ms. Catherine Carroll, Ms. Peggy Graves, and Ms. Gladys Fountain. But as of this date the District of Columbia has not identified a source for the needed money.

Yesterday at DCV, I reiterated this immediate and serious concern to Dr. Harvey Sloane. Dr. Sloane was on his way to a meeting with Mr. Hawkins. Discharging residents without this needed subsistence level of cash is essentially assigning residents who have lived within an institution for years to a condition of homelessness.

(2) Vocational rehabilitation services

Institutionalized residents who will be living in the community need to be meaningfully engaged in their environments with purpose to their lives in order to thrive and meet their individualized needs. For this to occur, they need the opportunity to develop skills through vocational rehabilitation. Responsible management would have initiated vocational rehabilitation months and months ago. For the residents decertified for nursing home care years ago, vocational rehabilitation should have been initiated years ago. Lack of initiative and proactive planning for the residents contributed to the rationale for new management of DCV in the Court Monitor's January 17, 1996, Status Report. It is distressing to me that the process of planning for vocational rehabilitation was just initiated last week, with the contact of the Rehabilitation Services Administration in the Department of Human Services of the District of Columbia. Follow through is vital.

It is inconceivable to me that Mr. Vernon Hawkins and Ms. Sue Brown will do anything other than intercede with the appropriate District of Columbia agencies as needed, so that the major concerns identified above will be resolved. Thus, allowing Ms. Kemp and Ms. Carroll to continue their leadership and follow through. This situation will be closely monitored.

My April 3 letter to the Court identified six residents who the transition team identified as qualified for independent living. However, since that time, the Occupational Therapists and Physical Therapists have completed their excellent assessments of the six residents and determined that three of the six residents are not sufficiently capable of independence in the activities of daily living, for example, ability to prepare food. In addition, two of the three residents as determined by the health care team and the residents have medical supervision issues and precarious personal coping capabilities which prevent them from successfully functioning independently. Therefore, these two residents will be appropriately outplaced to community residence facilities. The sites have not been selected, although these two residents are in the process of making visits.

One resident, Mr. C.F., currently states that he wants to live in the community independently. There are several activities of daily living for which Mr. C.F. would need assistance, for example, dressing with buttons, cooking, shopping (removing items from shelves and carrying them home), bathing, determining water temperature, laundry, and descending stairs. The community would be the "least restrictive" environment according to federal law for him, however, it would not be safe nor would he be able to function independently unless Mr. C.F. had available to him a personal care aide seven days a week to perform the above tasks, among various others. Currently, there is a lack of sufficient personal care aides in the District of Columbia to perform such tasks seven days a week for Mr. C.F. I will keep the Court informed of the progress in planning for the most appropriate outplacement for Mr. C.F. in accordance with the Court Orders and federal law, the Americans with Disabilities Act.

Residents with Mental Illness

Thirty-four residents who were on the list of still indeterminate origin of residents with mental illness have been outplaced. All of these residents have a primary medical diagnosis requiring long term nursing home care, as recently assessed by the transition team that included Geriatric Psychological Systems, Inc. (GPS). One resident was discharged to his family after extensive review and evaluation and a one week trial visit. A return assessment after the one week visit was conducted with his family and the transition team including GPS, which is currently serving as the Speciality Consultation Team for residents with mental illness.

There are 35 residents remaining at DCV. Sixteen are being considered by three nursing homes in the area. All these remaining residents have a primary medical diagnosis requiring long term nursing home care.

One resident, Mr. E.J., whose primary diagnosis is mental illness, as recently evaluated by GPS, will be outplaced to a community residence facility for persons with mental illness. Mr. E.J. has visited

two sites to date and will visit at least two more sites before outplacement to a community residence. The site has not been finalized to date.

Residents with Mental Retardation

This past week, two residents, Ms. A.R. and Mr. K.F., were outplaced to Wholistic a group home for residents with mental retardation. Georgetown University Child Development Center (GUCDC) has been serving as on-site consultants to Wholistic, and GUCDC staff accompanied the residents to their new homes. In addition, staff from DCV spent last weekend (the residents first weekend in their new homes) with these individuals for the day and evening shifts.

Although an interim rate still has not been mutually agreed upon, D.C. Family Services as of yesterday "has every intention" of accepting the six residents identified for outplacement. There is still no date for staff training and no admission date for the residents. At this point, there seems to be no good faith effort to resolve the interim rate dispute.

There still remains one resident, Mr. P.L., for whom no outplacement site has been secured.

The District is well beyond the agreed upon and Court Ordered February 29, 1996, outplacement date for residents with mental retardation.

Visits to Outplacement Sites

The Court Monitor, with a nursing home systems expert consultant, is visiting residents outplaced to their new homes in order to determine continued appropriateness of setting and to ensure that the residents' individualized needs are met in accordance with the Court Orders.

I have visited J.B. Johnson Nursing Center and the 15 residents outplaced there to date; met with the new management company, the administrator, admissions coordinator, therapeutic recreation director; toured all the units with the director of nursing; and met with all the residents. The new management company is open to any suggestions for improving care for the residents. I found the residents happy and alert, something I did not consistently see at DCV.

I have visited a proposed outplacement site operated by Allegis Health Care Centers in Grosvenor, Maryland.

My major concern to date is the staff-to-resident ratio at Carroll Manor Nursing Home in Hyattsville, Maryland. Over 50 DCV residents have been outplaced there to date. The current ratio is one certified nurse assistant to 12 residents during the day. As mentioned in my April 3 letter to the Court, this facility is undergoing new management, however, the arrangements made to outplace residents there were made with Providence Hospital and Sr. Carol and Mr. Ed Cook, Vice President. I will be meeting with them soon to review the Court Orders in order that I may be able to assure the Court that the Court Orders will be met for the best interests of the residents. The Geriatrician at

Carroll Manor is giving extra attention to ensure that the residents medical needs will be met, since this facility is in the process of hiring new staff. The staffing issue was originally pointed out to the Court Monitor and the nursing home systems expert consultant by the sister of a recently outplaced DCV resident.

Personal Needs Allowance (PNA)

I am enclosing my March 7, 1996, letter to Ms. Alberta Brasfield requesting information on the residents' PNA. Ms. Brasfield responded on March 13 and March 21, and I am grateful for her attention to the matter. In Ms. Brasfield's responses, admissions are made that the residents' "PNA balances [are being] held by the District of Columbia" (March 13) and that there were "moneys previously held by District of Columbia on behalf of DCV residents" (March 21). This is in violation of federal law and regulations. However, I am happy for the residents sake that, as of March 19, 1996, all residents' PNA accounts remaining in the D.C. Treasury were transferred to separate interest-bearing PNA accounts on each resident's behalf at Independence Federal Savings Bank.

According to personnel in the business office at DCV, on December 14, 1995, separate accounts were established for the residents at Independence Federal Savings Bank (IFSB), one for the PNA and one for Cost of Care. Many residents already had personal savings accounts established at IFSB.

For the most part when the residents' PNA was in the D.C. Treasury it was transferred quarterly to IFSB. Therefore, the District did retain what could have been interest for the residents in violation of federal law. However, in order to research this further, it would take away energies and resources now more directly needed for the residents in monitoring their outplacement to their new homes. In addition, the computer records for the residents is in somewhat of a chaotic state of affairs. As of October 1995, the business office computers at DCV were removed by the Office of Long Term Care Administrator and since then are no longer hooked into the main frame computers within the Office of Long Term Care Administration in the Department of Human Services for the District of Columbia. Therefore, the Office of Long Term Care Administration does not have current information on residents accounts since October. And, the DCV business office does not have access to computer records since mid-October. Therefore, all accounts from mid-October to date are hand entered in booklets. This system within the Long Term Care Administration and DCV is primitive and, as indicated by the business office personnel at DCV, would probably be a "nightmare for auditors."

While visiting residents outplaced to J.B. Johnson Nursing Center last week, I inquired about the residents' PNA. The residents all have their PNA accounts, information for which was easily retrieved by the facilities state-of-the-art computers. I was told by the business office at J.B. Johnson that, until new management took over the facility in December, the facility had the same primitive accounting set-up with the Office of Long Term Care Administration. (J.B. Johnson Nursing Center is owned by the District but now privately managed by the same group which manages Washington Center for Aging Services, also owned by the District.)

Now when DCV residents are outplaced, checks from their IFSB personal savings accounts, PNA accounts, and if they have one, their burial accounts, either accompany the residents to the new facilities, or are mailed within a few days. These reactive steps taken by the defendants are all in the residents' best interests. If it were not for the presence of the Court at DCV, residents' rights would still be violated.

Mr. Alex Teneza, accounting technician in the business office at DCV, has demonstrated a kindly sensitivity to the plight of the residents' living situation. Mr. Esmeraldo Cruz, accountant in the business office at DCV, has been helpful in supplying information.

Chronic Non-Compliance of Payment of Vendors

Attached to this letter to the Court is an updated 'DC Village Nursing Home Vendor Report'. Direct care providers are still without payment in violation of the Court Orders and one contract nursing staff vendor has still not been able to resume needed direct care services.

Some examples of overdue payments to direct care providers (nursing and physical therapy) in violation of the Court Orders are the following:

- National Nurses Inc., although payments have been made, is still owed \$24,663.11.
- SRT-Premeir is owed \$52,594.59.
- Total Healthcare Resources, Inc. (THR) is owed \$52,953.50 and is unable to reinstate their valuable direct caregivers until paid.
- CUP is owed \$20,882.13 and indicates they will have to discontinue services this weekend if not paid.
- Therapeutic Management Services (TMS) provides essential and needed physical therapy services, which are now vital in the health team assessment of the residents for transition planning to their new homes. Their services are vital in order to identify the most appropriate setting to meet the residents' individualized needs. The physical therapists have always responded professionally to any requests to assess the residents in addition to their own proactive professional behavior on behalf of the residents. TMS has still not been paid for January services on an invoice submitted February 13. This non payment was brought to the attention of Mr. Vernon Hawkins in the April 12 meeting referred to previously in this letter under Residents Identified for Independent Living.

At this meeting Ms. Gladys Fountain told Mr. Hawkins that TMS has not been paid for January services because their invoice was submitted with their February invoice and the District cannot pay two invoices at once. Ms. Fountain received this information from a phone call made during this meeting to Mr. Terry Thomas, former administrator at DCV, working on behalf of Ms. Queen in the

Department of Human Services. The information given by Ms. Fountain to Mr. Hawkins was false. The February invoice was submitted March 10. I pointed out the facts and the inaccuracies in Ms. Fountain's statement to the April 12 meeting attendees, and suggested that they call the president of TMS into the meeting and verify it, since I had just seen the physical therapist in the hallway on her way to assess a resident at the bedside. The physical therapist was not asked to validate the correct information nor has TMS been paid for January services in the amount of \$5145.00. In previous reports to the Court, I have chronicled the non-payment of services to this critical direct care vendor.

The physical therapists function without payment out of care, concern, and compassion for the residents. This is a small business and is pained by lack of payment. My concern is that the physical therapists will be taken advantage of, and that if DCV does close as projected within several weeks, they will not be paid at all, which would be unconscionable. To me this scenario alone warrants an escrow account to assure payment and/or a Court Order to guarantee payment.

Yesterday, I received a copy of the defendants' pleading Opposition of the District of Columbia to the Motions of Plaintiff and Plaintiff-Intervenor for Further Relief to Remedy Continuing Contempt and for Contempt Sanctions.

I have a few concerns regarding this, they are the following:

(1) On page 3, the defendants state that as of April 18, 1996, the "contracts for National Nurses and American Therapeutics were pending approval at the control board." I called the D.C. Financial Control Board this morning to verify this statement because it was not known to me that there were any outstanding contracts for these two vendors. According to Mr. Doneg McDonough of the Control Board this statement in the defendants pleading is false and "does not match our records here."

The Control Board records indicate that for National Nurses, Inc., a 120 day contract for 24 hour coverage for the period March 1 through June 28, 1996, was approved February 28, 1996. This February date is the last activity for a contract for National Nurses with the Control Board.

The Control Board records for American Therapeutics indicate that a 120 day contract for services from February 18 through June 18, 1996, was reviewed and approved February 21, 1996. This February date is the last activity for a contract for American Therapeutics with the Control Board.

Given the front page article in the Metro section of today's, Thursday, April 25, 1996, Washington Post and similar coverage on WTOP radio news this morning, these false assertions are particularly problematic to me. The article and radio news broadcast profile false assertions about contracts made by the Department of Human Services and Mr. Vernon Hawkins.

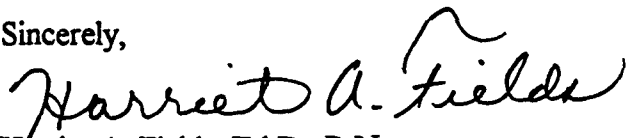
(2) Page 4 of the pleading states that the "defendants took immediate and appropriate action to resolve matters adversely affecting their ability to timely pay the D.C. Village vendors." These same vendors who supply vital direct nursing care services are still not payed in violation of the Court Orders. The fact is that the treatment nurse supplied by THR switched contract nurse staff vendors

in order to receive a pay check. However, the contract nurse staffing vendor to which the treatment nurse switched subsequently threatened termination of services because of lack of payment.

(3) On page 10 of the pleading the defendants refer to the "imminent closure of the facility" and "less than 100 residents whose numbers are being reduced almost daily". If there is one but one long term care resident at DCV, it is the duty of the District of Columbia to provide services.

Once again Judge Hogan, it is a privilege to serve the Court and to work with all concerned parties for the best interests of the long term care residents of the District of Columbia.

Sincerely,



Harriet A. Fields, Ed.D., R.N.
Court Monitor

Attachments (1) DC Village Nursing Home Vendor Report
(2) Court Monitor Letter to Ms. Alberta Brasfield

cc: Mr. Richard J. Farano
Mr. David Deutsch
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U.S. Department of Justice
P.O. Box 66400
Washington, DC 20035

Mr. William Isaacson
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Ms. Barbara Mann
Office of the Corporation Counsel
441 4th Street, NW, Suite 680
Washington, DC 20005

DC VILLAGE NURSING HOME VENDOR REPORT

INVOICES OPEN > 45 DAYS

VENDOR	CONTACT	SUPPLIES	DATES	SERVICES	PAYMENT	CONTINUE SERVICE?
DISTRICT HEALTHCARE	TORINE MITCHELL	MEDICAL, JANITORAL, INDUSTRIAL, & SAFETY SUPPLIES	3/19/93	\$7518.75	APPROX. \$27000 REC'D, BUT VENDOR DOES NOT KNOW FOR WHICH INVOICES; WORKING WITH A/P @ DC VILLAGE	YES, IF PAID
			3/19/93	8347.50		
			1/21/93	6417.00		
			1/21/93	179.25		
			2/28/94	9913.15		
			6/27/94	2499.30		
			7/11/94	556.00		
			7/25/94	1837.50		
			9/9/94	4050.07		
			9/9/94	1045.80		
			9/9/94	1645.24		
9/9/94	2499.30					
9/12/94	2766.75					
5/5/95	<u>880.00</u>					
				\$23,155.61		
NATIONAL PATIENT CARE SYSTEMS	JUDY OGLESBY	SPECIALTY BEDS	3/31/95	8110.00	DC VILLAGE IS NOT RETURNING CALLS.	YES
			9/30/95	1276.00		
			10/31/95	8925.00		
			11/30/95	8925.00		
			12/31/95	7950.00		
			1/30/96	6925.00		
			2/29/96	50.00		
			2/29/96	<u>5600.00</u>		
	47761.00					
ALLIED MEDICAL CONSULTS	MRS. CRYCIONE		3/12/96	5973.93		YES
			3/12/96	<u>13912.06</u>		
				19885.99		
CUP	JAMES HAYNES	NURSING	3/5/96	20882.13	VENDOR NEEDS \$ FOR PAYROLL	YES, THRU 4/27/96

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DC VILLAGE NURSING HOME VENDOR REPORT

INVOICES OPEN > 45 DAYS

VENDOR	CONTACT	SUPPLIES	DATES	SERVICES	PAYMENT	CONTINUE SERVICE?
T.H.R. (TOTAL HEALTHCARE RESOURCES, INC.)	EMMA RESUMADERO AND JUNE BROWN	NURSES	NOV. DEC.	\$15673.20	DC VILLAGE PAID \$23463.60 SINCE 4/1/96 REPORT	SVC SUSPENDED 3/28-WILL COMMENCE ONCE PAID \$115000
				5698.25		
				9087.50		
				7994.55		
				3635.33		
				3480.45		
				8599.00		
				4500.00		
				10483.08		
				2752.70		
			JAN. FEB.	6663.93 BAL DUE		
				2806.30		
				10719.68		
				11964.10		
				2366.70		
	5981.88					
	2758.40					
	5727.55					
	2014.60					
	3534.30					
	<u>912.00</u>					
	\$152,953.50					
JACOBS GARDNER	JOHN KEBLER	OFFICE SUPPLIES	7/94	111.00		YES
MEAD JOHNSON	JOANELLE PATTON	DIETARY SUPPLEMENT	3/6/96	469.80		YES

\$14,400 to IRS

DC VILLAGE NURSING HOME VENDOR REPORT

INVOICES OPEN > 45 DAYS

VENDOR	CONTACT	SUPPLIES	DATES	SERVICES	PAYMENT	CONTINUE SERVICE?
NATIONAL NURSES SVCS	STEVE NELSON	CONTRACT NURSING	12/21/95	\$2544.82	THESE ARE BALANCES DUE EXCEPT FOR 2/21/96	YES
			12/28/95	254.16		
			12/28/95	311.13		
			1/4/96	144.79		
			1/11/96	71.55		
			1/31/96	324.28		
			2/7/96	29.55		
			2/15/96	974.78		
			2/21/96	<u>20008.05</u>		
				24663.11		
SRT-PREMEIR	TONY SILER	NURSING	9/7/95	2334.70		YES
			9/7/95	4433.50		
			11/23/95	7349.43		
			11/23/95	5303.33		
			1/4/96	2191.45		
			1/4/96	3277.55		
			2/1/96	244.32 BAL DUE		
			2/8/96	15.58 BAL DUE		
			2/15/96	3412.37		
			2/22/96	3809.77		
			2/22/96	7362.52		
			2/29/96	3954.07		
2/29/96	<u>8906.00</u>					
				\$52,594.59		
ABBOTT DIAGNOSTICS	JOSIE		12/12/95	102.84		
			12/12/95	99.24		
			2/7/96	7219.50		
			2/22/96	<u>8158.55</u>		
				15580.13		

P.04

793 691 8559

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DC VILLAGE NURSING HOME VENDOR REPORT

INVOICES OPEN > 45 DAYS

VENDOR	CONTACT	SUPPLIES	DATE	SERVICES	PAYMENT	CONTINUE SERVICE?
OCE BUSINESS SYSTEMS	AMY STRONG	COPIER LEASING	1/1/94	\$488.00		NO SERVICE UNTIL PAY MENT; WORKING W/ SALES REP AND MARCH RUNNER
			8/1/94	488.00		
			10/1/94	488.00		
			11/1/94	488.00		
			12/1/94	488.00		
			12/28/94	488.00		
			2/12/95	488.00		
			5/8/95	488.00		
			10/4/95	488.00		
			11/4/95	488.00		
			12/5/95	488.00		
			1/4/96	488.00		
			2/8/96	488.00		
			2/24/96	488.00		
			7/20/94	488.25		
			10/31/94	488.25		
			11/17/94	488.25		
		12/18/94	488.25			
		1/19/95	488.25			
		2/17/95	488.25			
		3/20/95	488.25			
		5/18/95	488.25			
		6/16/95	488.25			
		7/20/95	512.66			
		8/18/95	512.66			
		9/29/95	512.66			
		10/18/95	512.66			
11/17/95	512.66					
12/29/95	512.66					
1/18/96	516.66					
2/15/96	512.66					
3/14/96	<u>512.66</u>					
	15840.19					

DC VILLAGE NURSING HOME VENDOR REPORT

VENDOR	CONTACT	SUPPLIES	INVOICES OPEN > 45 DAYS		PAYMENT	CONTINUE SERVICE?
			DATES	SERVICES		
HEALTHCARE LAUNDRY	TED SCHIMPF	LAUNDRY SERV	3/1/96	\$1620.75		YES
			3/1/96	5659.68		
			3/8/96	1032.75		
			3/8/96	<u>5449.86</u>		
				13763.04		
COULTER CORP	JAY BRIAS	PT. TESTS	3/95-2/96	17755.32	INVOICED 4/11/96 PENDING FUNDING	YES
HDI DIAGNOSTIC	FREIDA BACKER	CONTROL SOL.	10/13/95	87.50		YES
IBM	NANCY HOWARD	PRINTER MAINT.	11/1/95	46.00		YES
			12/1/95	46.00		
			1/1/96	46.00		
			2/1/96	46.00		
			3/1/96	<u>46.00</u>		
				230.00		
SHANE MEATS	DEBBIE SHANE	FOOD	3/7/96	1313.98		YES, IF PAID
			3/11/96	<u>625.39</u>		
				1939.37		
HOOD'S INST. FOOD	JESSIE REEVES	FOOD	3/8/96	131.45		
CONTINENTAL	ROB	FOOD	3/12/96	498.09		

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DC VILLAGE NURSING HOME VENDOR REPORT

INVOICES OPEN > 45 DAYS

THE FOLLOWING VENDORS WERE CONTACTED ON 4/19/96 AND 4/22/96 AND HAD NO RECORD OF INVOICES OUTSTANDING > 45 DAYS:

ACTION SUPPLY
AMERICAN COMBUSTION
AMES
CALICO
CALVA, INC.
CHEMTRON
COLUMBIA DIAGNOSTIC
COMMERICAL KITCHEN
DIETARY SPECIALTIES
DIVISION MEDICAL SUPPLIES
EAST TECH, INC
EECO
HILL ROM
HOBART
J. P. FOOD SERVICE
MAZO LERCH
MARTEC
PAMECO CORP.
POTOMAC BOOK HOUSE
R. E. MICHEL
ROCHE BIOMEDICAL LABORATORIES (COMPLETE VERIFICATION DEPENDENT ON SUPPLING ACCT. #)
ROSS LABORATORIES
SANDOZ
SOUTHERN INT'L
TECHNICAL SALES AND SERVICES, INC.
TRIBLES, INC.
W. W. GRAINGER

REPORT DATE: 4/23/96