

VT SUPERIOR COURT  
WASHINGTON UNIT

2013 SEP 18 P 2:38

STATE OF VERMONT  
SUPERIOR COURT  
WASHINGTON UNIT

IN RE: Instrumentarium Dental Inc.

) CIVIL DIVISION

) Docket No. 13-9-13 Wncw

)

**ASSURANCE OF DISCONTINUANCE**

Vermont Attorney General William H. Sorrell ("the Attorney General") and Instrumentarium Dental Inc. ("Respondent") hereby agree to this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459.

**BACKGROUND**

1. The Prescribed Products Disclosure Law, 18 V.S.A. § 4632, requires prescribed product manufacturers to file periodic reports with the Attorney General's Office detailing certain information about the allowable expenditures and permitted gifts the manufacturer gives to Vermont health care providers and other recipients covered under the law.
2. Respondent, Instrumentarium Dental Inc., is a prescribed product manufacturer incorporated under the laws of Wisconsin, with its principal place of business located at 300 Edgerton Avenue, Milwaukee, WI 53207.
3. Instrumentarium Dental Inc. gave allowable expenditures and/or permitted gifts to Vermont health care providers and/or other recipients covered under the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, during fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June 30, 2011) and calendar year 2011 (July 1, 2011 through December 31, 2011).
4. Instrumentarium Dental Inc. failed to file annual reports with the Attorney General's Office for fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1,

2010 through June 30, 2011) and calendar year 2011 (July 1, 2011 through December 31, 2011).

5. The above conduct constitutes a violation of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632.

#### **INJUNCTIVE RELIEF**

6. Instrumentarium Dental Inc. shall comply with the Prescribed Products Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632.

7. Within 30 days of signing this Assurance of Discontinuance, Instrumentarium Dental Inc. shall make payment to the "State of Vermont" in the amount of \$1,250.00, and send to: Kate Whelley McCabe, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609, in full payment of the registration fees owed under 18 V.S.A. § 4632 for fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June 30, 2011) and calendar year 2011 (July 1, 2011 through December 31, 2011).

#### **OTHER TERMS**

8. Instrumentarium Dental Inc. agrees that this Assurance of Discontinuance shall be binding on Instrumentarium Dental Inc., and its successors and assigns.

9. The Attorney General hereby releases and discharges any and all claims arising under the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, that it may have against Instrumentarium Dental Inc. for the conduct described in the Background section for fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June 30, 2011) and calendar year 2011 (July 1, 2011 through December 31, 2011). **The Attorney**

**General does NOT release any claims arising under the Prescribed Products Gift Ban, 18 V.S.A. § 4631a.**

10. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this Assurance and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be necessary or appropriate to enforce compliance with or to punish violations of this Assurance of Discontinuance.

#### **STIPULATED PENALTIES**

11. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance by having violated the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, then the parties agree that penalties to be assessed by the Court for each act in violation of this Assurance of Discontinuance shall be \$10,000. For purposes of this Section, the term "each act" shall mean each violation of the Prescribed Products Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632 that occurs after the date this Assurance of Discontinuance is executed. This Section 11 on Stipulated Penalties shall expire no later than ten years from the effective date of this Assurance of Discontinuance with no further action necessary by the parties. If after expiration of this Section 11 the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance by having violated the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, any such failure to report shall be governed by the terms of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632(c).

**NOTICE**

12. Respondent may be located at:

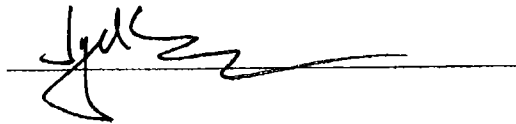
Gina Nese  
Chief Compliance Officer  
Dental Equipment and Consumables Legal Department  
1717 Collins Avenue  
Orange, CA 92867

13. Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

**SIGNATURE**

In lieu of instituting an action or proceeding against Instrumentarium Dental Inc., the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance. By signing below, Respondent voluntarily agrees with and submits to the terms of this Assurance of Discontinuance.

DATED at WASHINGTON DC, this 10<sup>th</sup> day of SEPTEMBER, 2013.

A handwritten signature in black ink, appearing to be "J. Kelly", written over a horizontal line.

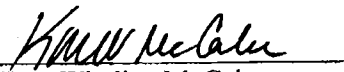
ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 18<sup>th</sup> day of September, 2013.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:

  
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