

VT SUPERIOR COURT  
WASHINGTON UNIT  
CIVIL DIVISION

STATE OF VERMONT  
SUPERIOR COURT  
WASHINGTON UNIT

2015 FEB 26 P 3:04

IN RE: Heraeus Kulzer, LLC )  
 ) CIVIL DIVISION  
 ) Docket No. 12S-2-15Cwncv  
 )  
 ) FILED

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell ("the Attorney General") and Heraeus Kulzer, LLC ("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 is a prescribed product manufacturer incorporated under the laws of Delaware, with its principal place of business located at 300 Heraeus Way, South Bend, IN 46614-2517.
3. Respondent 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), calendar year 2011 (July 1, 2011 through December 31, 2011), calendar year 2012 (January 1, 2012 through December 31, 2012) and calendar year 2013 (January 1, 2013 through December 31, 2013).
4. Respondent 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), fiscal year 2012 (July 1, 2011 through June 30, 2012) and fiscal year 2013 (July 1, 2012 through June 30, 2013).

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109 State Street  
Montpelier, VT  
05609

30, 2011), calendar year 2011 (July 1, 2011 through December 31, 2011), calendar year 2012 (January 1, 2012 through December 31, 2012) and calendar year 2013 (January 1, 2013 through December 31, 2013).

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

#### INJUNCTIVE RELIEF

6. Respondent shall comply with the Prescribed Product Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632.

7. No later than thirty (30) days after the filing of this Assurance of Discontinuance, Respondent shall make payment to the "State of Vermont" in the amount of \$45,000.00, and send to: Kate Whelley McCabe, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609.

#### OTHER TERMS

8. Respondent agrees that this Assurance of Discontinuance shall be binding on Respondent and its successors and assigns.

9. The Attorney General hereby releases and discharges any and all claims arising under the Prescribed Product Disclosure Law, 18 V.S.A. § 4632, that it may have against Respondent 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), calendar year 2011 (July 1, 2011 through December 31, 2011), calendar year 2012 (January 1, 2012 through December 31, 2012) and calendar year 2013 (January 1, 2013 through December 31, 2013).

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 Product Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 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 \$10,000.00. 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 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 the 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 Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632, any such violation shall be governed by the terms of the Prescribed Products Gift Ban and Disclosure Law, 18 V.S.A. § 4632(c).

#### NOTICE

12. Respondent may be located at:

Heraeus Kulzer, LLC  
Attn: Kira Geiss

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300 Heraeus Way  
South Bend, IN 46614-2517

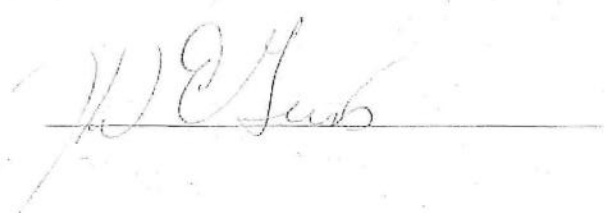
13. Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

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SIGNATURE

In lieu of instituting an action or proceeding against Respondent, 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 Heraeus Kulzer this 20 day of February, 2015.



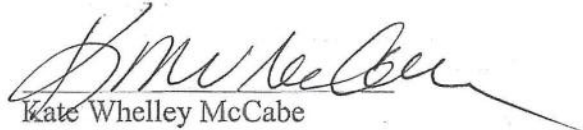
ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this <sup>26</sup> day of February, 2015.

STATE OF VERMONT

WILLIAM H. SORRELL  
ATTORNEY GENERAL

By:



Kate Whelley McCabe  
Assistant Attorney General  
Office of Attorney General  
109 State Street  
Montpelier, Vermont 05609  
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802.828.5621

*Kate.whelleyMcCabe@  
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cc: Seth H. Lundy, King & Spalding LLP  
Brian A. Bohnenkamp, King & Spalding LLP

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