

STATE OF NORTH CAROLINA **FILED** IN THE GENERAL COURT OF JUSTICE
WAKE COUNTY 2008 MAY 21 PM 2:40 SUPERIOR COURT DIVISION
CASE NO. 08 CVS 4443

WAKE COUNTY, C.S.C.
NORTH CAROLINA BOARD OF PHARMACY,)

BY _____)
Plaintiff,)

v.)

PCM VENTURE I, LLC; PETER L. AX; and)
LISA F. DIMICK,)

Defendants.)

FINAL CONSENT ORDER

THIS MATTER comes before the Court, on the consent of the parties, before the Superior Court of Wake County, the undersigned Judge presiding. The parties stipulate and agree to this Final Consent Order. Defendants stipulate that the findings of fact and conclusions of law are legally sufficient to support this Final Consent Order and agree not to challenge the legal adequacy of the findings and conclusions in any potential future proceeding to enforce this Final Consent Order or seeking to hold any party in contempt for failure to comply with its terms. With the consent of the parties, the Court hereby enters the following:

FINDINGS OF FACT

1. Plaintiff, the North Carolina Board of Pharmacy ("the Board"), is an occupational licensing board that is responsible for enforcing the provisions of the North Carolina Pharmacy Practice Act and the laws pertaining to the distribution and use of drugs in the State of North Carolina. The Board is the proper body to bring this proceeding under the authority granted to it in the North Carolina Pharmacy Practice Act and the rules and regulations of the Board that are promulgated pursuant thereto.

2. PCM Venture I, LLC ("PCM") is, and has at all relevant times been, a limited liability company organized and existing under Utah law. PCM's only place(s) of business are located outside the State of North Carolina.

3. PCM does business through certain websites, including but not limited to kwikmed.com and selfserverx.com.

4. PCM has shipped, mailed and/or delivered legend drugs into the State of North Carolina.

5. PCM does not have an active annual registration or permit with the Board to ship, mail and/or deliver legend drugs into the State of North Carolina, nor has it ever had such a registration or permit.

6. In reviewing and entering this Final Consent Order, Plaintiff has been represented by Clinton R. Pinyan. Defendants have been represented by Kevin H. Marino. The parties represent, and the Court finds, that this Final Consent Order has been approved by appropriate action by both the North Carolina Board of Pharmacy and PCM Venture I, LLC and is binding on those entities.

CONCLUSIONS OF LAW

1. The Court has both personal jurisdiction over Defendants and subject matter jurisdiction in this case.

2. Plaintiff North Carolina Board of Pharmacy has the authority to bring this action pursuant to North Carolina General Statutes § 90-85.39.

3. North Carolina law requires any pharmacy operating outside the State of North Carolina to register annually with the Board if that pharmacy ships, mails or delivers in any manner a dispensed legend drug into the State of North Carolina. N.C. Gen. Stat. § 90-85.21A.

4. Plaintiff North Carolina Board of Pharmacy contends in this case that the actions of Defendants in shipping, mailing and/or delivering legend drugs into the State of North Carolina without an annual registration or permit with the Board violates North Carolina General Statutes Section 90-85.21A. Defendants agree to this consent order without admitting that they have violated North Carolina law.

ORDER

Based upon the foregoing findings of fact and conclusions of law and with the consent of the parties, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. Defendant PCM Venture I, LLC is hereby permanently enjoined from shipping, mailing and/or delivering in any manner a dispensed legend drug into the State of North Carolina and from aiding or abetting others in doing so, unless and until the person or entity shipping, mailing and/or delivering the dispensed legend drug into the State of North Carolina secures an annual registration or permit from the North Carolina Board of Pharmacy pursuant to N.C. Gen. Stat. § 90-85.21A.

2. This Final Consent Order is binding upon Defendant PCM Venture I, LLC and any persons or entities affiliated with it, including but not limited to franchisors, franchisees, parents, subsidiaries, divisions or persons or entities affiliated by contract or otherwise by privity, their successors or assigns, and any persons, association of persons or entities employed, operated or controlled by or otherwise associated with Defendants who receive actual notice of this Final Consent Order, including but not limited to Peter L. Ax and Lisa F. Dimick. Defendants shall provide a copy of this Final Consent Order to all persons or entities affiliated, employed, operated by or otherwise associated with Defendants and involved in the operation of PCM Venture I, LLC, along with any successors and assigns.

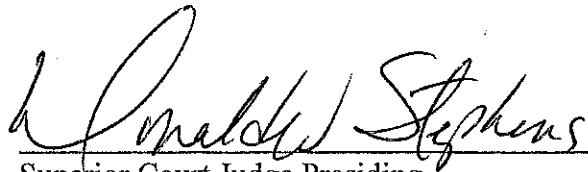
3. Defendants shall take notice that any willful violation of this Permanent Injunction may be treated as civil and criminal contempt, leading to the imposition of sanctions upon them, including incarceration and fines.

4. The parties agree to bear their respective costs of this action, including their respective attorney's fees and expenses.

5. Plaintiff North Carolina Board of Pharmacy shall not be required to provide a bond or other security for the issuance of this injunctive order.

6. The court shall retain jurisdiction of the parties and this matter for further proceedings to enforce this Order, if necessary.

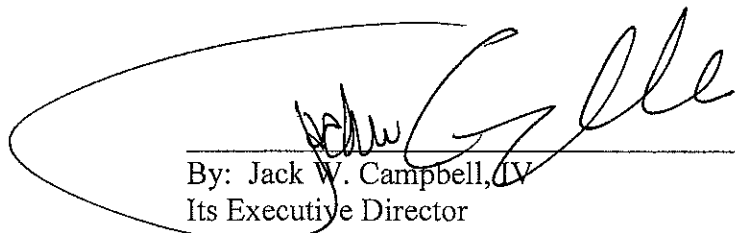
SO ORDERED, this, the 21 day of May, 2008.



Superior Court Judge Presiding

By signing below, the parties affirm their consent and agreement to the entry of the foregoing Final Consent Order in Wake County Superior Court Case Number 08 CVS 4443.

NORTH CAROLINA BOARD OF PHARMACY


By: Jack W. Campbell, IV
Its Executive Director

PCM VENTURE I, LLC

By: Peter L. Ax
Its Manager and Chief Executive Officer

Peter L. Ax

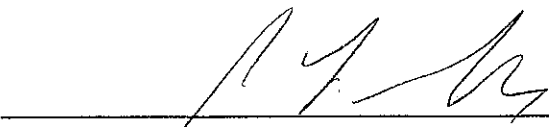
Lisa F. Dimick

By signing below, the parties affirm their consent and agreement to the entry of the foregoing Final Consent Order in Wake County Superior Court Case Number 08 CVS 4443.

NORTH CAROLINA BOARD OF PHARMACY

By: Jack W. Campbell, IV
Its Executive Director

PCM VENTURE I, LLC



By: Peter L. Ax
Its Manager and Chief Executive Officer



Peter L. Ax

Lisa F. Dimick

By signing below, the parties affirm their consent and agreement to the entry of the foregoing Final Consent Order in Wake County Superior Court Case Number 08 CVS 4443.

NORTH CAROLINA BOARD OF PHARMACY

By: Jack W. Campbell, IV
Its Executive Director

PCM VENTURE I, LLC

By: Peter L. Ax
Its Manager and Chief Executive Officer

Peter L. Ax



Lisa F. Dimick