**BEFORE THE NORTH CAROLINA BOARD OF PHARMACY**

**In Re:**

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| **Michael Best** | ) | **ORDER REINSTATING LICENSE** |
| **(License No. 9356)** | ) | **WITH CONDITIONS** |
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**THIS MATTER** was heard on January 20, 2009, by the North Carolina Board of Pharmacy ("Board") located at 6015 Farrington Road, Suite 201, Chapel Hill, North Carolina, upon the request of Michael Best ("Petitioner") for reinstatement of his license to practice pharmacy in the state of North Carolina. Board members Haywood, Nelson, Chesson, and Dennis conducted this hearing. After hearing the testimony of witnesses, adjudging the credibility of the witnesses, and receiving evidence, the Board makes the following:

## FINDINGS OF FACT

1. At relevant times, Petitioner was licensed to practice pharmacy by the Board and was the holder of license number 9356.
2. On April 2, 2008, Board staff received a report from Walgreens Loss Prevention alleging that Petitioner had admitted to diverting at least 2000 dosage units of hydrocodone products from Walgreens pharmacy for personal use.
3. Board Inspector Jason Smith investigated the allegations, confirmed that Petitioner had diverted hydrocodone products for personal use, and accepted Petitioner's voluntary surrender of license for cause on April 10, 2008.
4. Walgreens terminated Petitioner's employment.
5. The North Carolina District Attorney for Mecklenburg County charged petitioner with felony embezzlement of a controlled substance. The District Attorney

agreed on October 13, 2008 to a deferred prosecution agreement, the terms of which provide that if Petitioner complies with certain conditions for a period of 24 months, the charges will be dismissed.

6. Following his surrender of license, Petitioner entered into a contract with North Carolina Pharmacist Recovery Network ("NCPRN").

7. Petitioner completed a ninety-day in-patient substance abuse course of treatment at the Pavillon Center from May through July 2008.

8. The Pavillon discharge summary revealed that Petitioner had diverted opioids from his then-employer, Winn Dixie, in 1999. Petitioner self-reported to PRN and entered into a five-year contract, which expired in early 2005. Petitioner testified that his latest substance abuse issues were triggered after being prescribed opioid analgesics after hernia surgery in late 2006. Petitioner admitted that he did not reveal to his treating physicians his prior history of substance abuse.

9. NCPRN reports that Petitioner has been fully compliant with his contract terms and his on-going substance abuse treatment and counseling, and advocates his return to practice with appropriate conditions.

## CONCLUSIONS OF LAW

Petitioner has demonstrated that he has been in a period of successful recovery and compliance with his NCPRN contract. The Board, in its discretion, concludes that Petitioner can safely resume the practice of pharmacy.

**IT IS THEREFORE ORDERED** that Petitioner's license to practice pharmacy is REVOKED, this revocation stayed indefinitely and Petitioner reinstated to practice, subject to the following conditions:

1. Petitioner shall successfully complete his NCPRN contract, which shall be renewed to extend for five (5) years from the date of this Order. Because of Petitioner's prior history, NCPRN may, in its discretion, extend the length of this contract as necessary.
2. Petitioner shall advise the Board promptly in writing of any change of address or change in practice status.
3. Petitioner shall obtain prior approval of all employment as a pharmacist from the Board's Executive Director.
4. Petitioner must provide any potential employer a copy of his deferred prosecution agreement in advance of accepting any employment and provide documentation of having done so to the Board's Executive Director.
5. Petitioner shall comply with the terms of his deferred prosecution agreement.
6. Petitioner shall not serve as pharmacist manager of any pharmacy.
7. Petitioner shall not serve as a preceptor of pharmacy students.
8. Petitioner may not be employed as a pharmacist more than 30 hours per week. This limitation may, at any time, be extended to 40 hours per week, on average, at the discretion of the Executive Director of NCPRN.

9. Petitioner shall be subject to unannounced drug screens to be performed at his expense by the Board or its agents, and shall supply urine, blood, hair, nail, or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substance, prescription drug, or alcohol that was not previously prescribed for Petitioner by a practitioner acting in the normal course of medical treatment of Petitioner.

10. Petitioner shall authorize NC PRN, and any treating physician or other health-care provider to release Petitioner's medical records to the Board.

11. Petitioner shall provide to Board staff by February 28, 2009, evidence that he has completed sufficient continuing education hours to renew his license to practice pharmacy for 2009.

12. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.

13. Petitioner shall violate no rules or regulations of the Board.

14. If Petitioner fails to comply with any terms or conditions of this Order, the stay of Petitioner's license revocation will be lifted, and Petitioner shall be subject to additional disciplinary action by the Board.

This is the 21st day of January, 2009.

NORTH CAROLINA BOARD OF PHARMACY

By: _____
Jack W. Campbell IV
Executive Director

## CERTIFICATE OF SERVICE

I certify that on January 27, 2009, I caused a copy of this Order Reinstating License to be served on Petitioner by registered mail, return-receipt requested.

Jack W. Campbell IV
Executive Director

cc: Best License File
Paul Peterson, Executive Director, North Carolina Pharmacist Recovery Network