

NORTH CAROLINA
RANDOLPH COUNTY

FILED

2011 SEP -6 AM 10:45

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

11 CVS 2343

NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS, BY [Signature]

Plaintiff,

vs.

HEARTLAND DENTAL CARE, INC.
d/b/a HEARTLAND MANAGEMENT,
INC.; GARY CAMERON AND
ASSOCIATES, P.C.; AND GARY L.
CAMERON, D.D.S.

Defendants.

**CONSENT ORDER
GRANTING
PERMANENT INJUNCTION**

THIS MATTER came to be heard and was heard on September 6, 2011, before the undersigned Superior Court Judge upon consent of the parties, Plaintiff, North Carolina State Board of Dental Examiners ("the Dental Board"), and Defendants, Heartland Dental Care, Inc. d/b/a Heartland Management, Inc. ("Heartland"); Gary Cameron and Associates, P.C. (the "Existing P.C."); and Gary L. Cameron, D.D.S. ("Dr. Cameron"), by and through their undersigned counsel, and pursuant to N.C. Gen. Stat. §§ 90-40.1(b), 1-485, and 1A-1, Rule 65, on a Complaint for Permanent Injunction against Defendants. The parties consent to and the undersigned Superior Court Judge finds and concludes as follows:

In its Complaint, which is incorporated herein by reference in its entirety, the Dental Board alleges that on or about March 31, 2010, Defendants executed and implemented a series of transactions, contracts, documents and agreements pursuant to which Dr. Cameron unlawfully transferred i) ownership, ii) management, iii) supervision, and/or iv) control of his dental practice to Heartland, an unlicensed individual or entity in violation of the Dental Practice Act codified at

N.C. Gen. Stat. § 90-22 *et seq.* and the Management Arrangements Rule codified at 21 N.C. Admin. Code 16X.0101.

In their Answer, which is incorporated herein by reference in its entirety, Defendants deny that Dr. Cameron transferred ownership, management, supervision, or control to anyone in violation of North Carolina law, and contend that Dr. Cameron lawfully sold certain assets to Heartland and entered into a lawful management agreement with Heartland.

Notwithstanding the allegations of Defendants, Defendants stipulate that for purposes of this matter only and in order to resolve their dispute with the Dental Board, sufficient evidence exists in this matter from which the allegations of the Dental Board could be established.

In accordance with the foregoing, and with the consent of the parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED that:

1. Defendants are perpetually enjoined from individually or jointly engaging in any management agreement, management arrangement, transaction, or other activities that violate the Dental Practice Act codified at N.C. Gen. § 90-22 *et seq.* or the Management Arrangements Rule codified at 21 N.C. Admin. Code 16X.0101. For purposes of this Order, the acts which Heartland is prohibited from engaging in shall also be prohibited for any affiliate or related entity of Heartland, or any successor to Heartland. For purposes of this Order, the acts which Dr. Cameron is prohibited from engaging in shall also be prohibited for any professional entity which is owned or controlled, in whole or in part, by Dr. Cameron.

2. Defendants shall completely and permanently rescind all transactions entered into among them as of the date of this Order. The effective date of the documents evidencing the rescission will be September 30, 2011 in order to permit an orderly transition for employees. As part of the rescission of the transactions:

- a. All documents, contracts or other agreements by and among defendants shall be permanently revoked, cancelled, nullified and/or rescinded.
- b. All agreements between Heartland or the Existing P.C. and Dr. Peter I. Son, D.M.D. ("Dr. Son") shall be permanently revoked, cancelled, nullified and/or rescinded.
- c. Defendants shall not, directly or indirectly, enter into or execute any new transactions, documents, contracts or other agreements among themselves, without prior approval by the Dental Board, except for the i) promissory note described in section 2.e.ii below; ii) the New Management Services

Agreement ("New MSA") described in Section 2.j below; and iii) rescission documents expressly described and permitted herein.

- d. All assets and other consideration conveyed to Heartland by Dr. Cameron and/or the Existing P.C. shall be returned to Dr. Cameron. Any assets conveyed by Dr. Cameron to the Existing P.C. may be retained by the Existing P.C. or transferred to the new professional corporation described in section 2.e.i below.
- e. All consideration conveyed to Dr. Cameron by Heartland as part of the transactions previously executed by or entered into among them shall be returned to Heartland less a deduction for Dr. Cameron's tax liability incurred in connection with his receipt of said consideration. This deduction shall not exceed the amount paid by Dr. Cameron to state and federal government taxing authorities as a result of his total tax liability from rescinding the prior transaction with Heartland. Dr. Cameron shall provide the Dental Board filed tax returns demonstrating his total tax liability from rescinding the prior transaction with Heartland when such returns are filed.
 - i. Dr. Cameron shall be permitted to establish a new Professional Entity ("New P.C.") as a Subchapter S Corporation as defined by the statutes and regulations of the Internal Revenue Service for the purposes described herein which shall at all times be owned by Dr. Cameron and/or another dentist or dentists holding a valid license from the Dental Board for the practice of dentistry in North Carolina.
 - ii. Dr. Cameron shall be permitted to provide a promissory note for the purposes of repaying or reconveying to Heartland all assets he received from Heartland as part of the transactions among Defendants, less Dr. Cameron's tax liability in connection with his receipt of said consideration, with the following conditions and limitations:
 1. The promissory note shall be issued by Dr. Cameron individually and shall not be issued in the name of Existing P.C. or New P.C.;
 2. A copy of the promissory note, with all terms and conditions included therein, shall be provided to the Dental Board for review, with an amortization schedule showing the schedule of payments and interest due under the promissory note. The promissory note shall not exceed a term of seven (7) years at a commercially-reasonable rate of interest. The loan shall be fully amortized with no balloon payment. The parties to the promissory note shall not amend, revise it, renegotiate it or extend its terms or interest rate without prior approval by the Dental Board;
 3. Neither Existing P.C. nor New P.C. shall be a debtor to Heartland under the note or under any other obligation of debt or repayment;

4. Neither the assets of Existing P.C. nor New P.C. shall be used as collateral for the promissory note. No asset that is used in connection with the dental practice owned by the Existing P.C., New P.C. or Dr. Cameron, shall be used as collateral for the promissory note. This prohibition shall apply to any such assets used in connection with the dental practice no matter the form of ownership of such assets;
 5. All payments made pursuant to the Promissory Note shall be made in the name of Dr. Cameron individually. Dr. Cameron shall provide verification to the Dental Board in a manner reasonably satisfactory to the Dental Board that all such payments are made by him individually; and
 6. The Promissory Note shall not be linked or connected in any manner to the New MSA.
- f. The obligation of Existing P.C. to Heartland's creditors issued to secure Heartland's debt will be irrevocably forgiven, rescinded and/or cancelled. Defendant Heartland shall take the steps necessary to cause its creditors, including Fifth Third Bank, to cancel the Uniform Commercial Code filing which was filed with the N.C. Secretary of State's Office on April 2, 2010.
 - g. Defendants shall provide to the Dental Board documentation sufficient to evidence the rescission of the transactions, agreements, documents and contracts entered into among defendants.
 - h. The Management Services Employment Agreement between Heartland and Dr. Cameron will be rescinded.
 - i. The Management Services Employment Agreement between Heartland and Dr. Son will be rescinded.
 - j. Heartland and Dr. Cameron shall be permitted to enter into an Amended and Restated Management Services Agreement ("New MSA") in the form approved by the Dental Board, a copy of which is attached to this Order under Seal. Heartland and Dr. Cameron, whether individually or through Existing P.C. or New P.C., shall make no revisions or amendments to New MSA unless such amendments or revisions are submitted to the Dental Board for review and are approved in writing by the Dental Board. Heartland and Dr. Cameron, whether individually or through Existing P.C. or New P.C., will comply in all respects with the terms of the New MSA.
 - k. All employees of Dr. Cameron's dental practice, whether current employees or future employees, will be employed by Dr. Cameron individually, by Existing P.C. or by New P.C. and no employees of Dr. Cameron's dental practice will be employed by Heartland.

3. Heartland and its affiliates, and successors are hereby enjoined from entering any new management arrangements or agreements, or any other similarly purposed agreement by whatever name designated, with North Carolina licensed dentists practicing within the State of North Carolina for a period of five (5) years from the date of the Consent Order Granting Permanent Injunction ("Expansion Limitation"), except those agreements expressly allowed by an Order of this Court in connection with i) the execution of the New MSA with Dr. Gary Cameron, Existing PC or New PC, or ii) the rescission of the transactions entered into among Defendants. Notwithstanding the foregoing, nothing in this Consent Order shall prohibit Heartland, its affiliates and successors from selling to or acquiring any dental management company or dental service organization (collectively, "DSO") that has approved management arrangements in North Carolina and operates on a multi-state basis. The parties acknowledge and agree that the foregoing Expansion Limitation will be applicable to a Heartland successor, regardless of the surviving DSO entity in any such transaction, but that it will not operate to disrupt existing lawful arrangements in North Carolina entered into by Heartland or by the other DSO which have been approved by the Dental Board. Sale of the Existing P.C. or New P.C. would require Dental Board review of any management arrangement or agreement between Heartland and any new owner. Sale of the practice shall not be connected in any way to the promissory note to Heartland referenced in Section 2.e.ii above in the Order.

4. Heartland is enjoined from being named or identified as a third-party beneficiary of any employment agreement between Dr. Cameron, Dr. Son, Existing P.C. or New P.C., and/or any other licensed dentist employed by any of them.


5. Heartland will pay to the Dental Board the sum of Thirty-Six Thousand Eight Hundred Seventeen Dollars and Fifty Cents (\$36,817.50) as partial reimbursement of the investigation costs incurred by the Dental Board in connection with this matter.

6. All pending Superior Court and/or administrative actions involving the Dental Board and Defendants shall be dismissed with prejudice, with no rights of appeal from any such dismissals, specifically including but not limited to 1) Defendants' Petition for Judicial Review filed in Wake County Superior Court, 11 CVS 002283; and 2) In re Heartland Dental Care, Inc. d/b/a Heartland Management, Inc., Dr. Gary L. Cameron, D.D.S. and Gary Cameron and Associates, P.C., Petitioners, the Request for Administrative Hearing filed by Defendants with the Dental Board on October 1, 2010.

7. The parties agree to bear the respective costs of this action.

8. This Order resolves all issues among the Parties and there is nothing further to be heard by this Court; however, the Court shall retain jurisdiction of this matter for further proceedings to enforce this Order, if necessary.

Issued this the 6th day of September, 2011.



Superior Court Judge

Consented to by and on behalf of Heartland Dental Care, Inc. d/b/a Heartland Management, Inc., Gary Cameron and Associates, P.C., and Gary L. Cameron, D.D.S.

K & L GATES LLP

By: Michael R. Gordon

Date: 8/30/11

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Heartland Management, Inc., Gary L. Cameron,
D.D.S and Gary Cameron and Associates, P.C.*

And

HEARTLAND DENTAL CARE, INC. d/b/a
HEARTLAND MANAGEMENT, INC.

By: _____
[Name]
[Title]

Date: _____

And

GARY CAMERON AND ASSOCIATES, P.C.

By: _____
Gary L. Cameron
Owner

Date: _____

And

GARY L. CAMERON D.D.S., Individually

Consented to by and on behalf of Heartland Dental Care, Inc. d/b/a Heartland Management, Inc., Gary Cameron and Associates, P.C., and Gary L. Cameron, D.D.S.

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Heartland Management, Inc., Gary L. Cameron,
D.D.S and Gary Cameron and Associates, P.C.*

And

HEARTLAND DENTAL CARE, INC. d/b/a
HEARTLAND MANAGEMENT, INC.

By: [Signature]
[Name]
[Title]

Date: August 30, 2011

And

GARY CAMERON AND ASSOCIATES, P.C.

By: _____
Gary L. Cameron
Owner

Date: _____

And

GARY L. CAMERON D.D.S., Individually

Consented to by and on behalf of Heartland Dental Care, Inc. d/b/a Heartland Management, Inc., Gary Cameron and Associates, P.C., and Gary L. Cameron, D.D.S.

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And

HEARTLAND DENTAL CARE, INC. d/b/a
HEARTLAND MANAGEMENT, INC.

By: _____

Date: _____

[Name]
[Title]

And

GARY CAMERON AND ASSOCIATES, P.C.


By: Gary L. Cameron

Date: 8-30-2011

Gary L. Cameron
Owner

And

GARY L. CAMERON D.D.S., Individually

By: 
Gary L. Cameron

Date: 8/30/2011

Consented to by and on behalf of the North Carolina State Board of Dental Examiners.

POYNER SPRUILL LLP

By: _____

Date: _____

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of Dental Examiners*

And

NORTH CAROLINA STATE BOARD OF
DENTAL EXAMINERS

By: _____
[Name]

Date: _____

[Title]

Consented to by and on behalf of the North Carolina State Board of Dental Examiners.

POYNER SPRUILL LLP

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*Attorneys for the North Carolina State Board
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Date: 9/6/2011

And

NORTH CAROLINA STATE BOARD OF
DENTAL EXAMINERS

By: C. W. Holland DDS/RD
[Name]

Chair, Hearing Panel
[Title]

Date: 9/6/2011