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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE SUSPENSION :
OR REVOCATION OF THE LICENSE OF :
 :
 BENJAMIN MARKS, D.D.S. :
 :
 TO PRACTICE DENTISTRY IN THE :
 STATE OF NEW JERSEY :
 :

Administrative Action
CONSENT ORDER

This matter was opened to the New Jersey State Board of Dentistry (hereinafter "Board") on an Order to Show Cause and Verified Amended Complaint and affidavits on March 11, 1992 which states that Dr. Marks is continuing to practice Dentistry despite an Interim Consent Order agreed to by Respondent at a hearing on August 24, 1990 providing that Dr. Marks' license to practice Dentistry shall be temporarily suspended pending evaluations and a Consent Order entered by the Board on November 28, 1990 continuing the temporary suspension of Dr. Marks' license pending evaluations. Anne Marie Kelly, Deputy Attorney General and Anthony Rocco, Esq. counsel for Respondent and the Respondent appearing and the parties agreeing to settle the matter

without a formal hearing and Dr. Marks testifying as to his understanding and consent as to each provision of the consent agreement and for good cause shown:

IT IS ON THIS 26th DAY OF Mar. 1992,
ORDERED THAT:

1. Benjamin Marks, D.D.S., shall have leave to voluntarily surrender his license to practice dentistry in the State of New Jersey.

Respondent shall contemporaneously with the entry hereof submit any and all wall certificates including but not limited to his dentistry license, DEA registration and general anesthesia permit to the Board of Dentistry at 124 Halsey Street, 6th Floor, Newark, New Jersey. Said voluntarily surrender shall have the same force and effect as if his license had been revoked and Respondent shall immediately cease and desist from any practice of Dentistry.

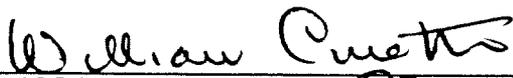
2. Respondent shall not petition the Board for reinstatement of his license to practice Dentistry in the State of New Jersey prior to one year from the entry of this Order. In the event such petition is filed he shall appear personally before the Board and he shall have the burden to demonstrate to the satisfaction of the Board that he is fit, capable, and competent of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

3. Immediately prior to Respondent's petition for reinstatement of his license he shall submit to a psychological evaluation by a Board appointed consultant and shall cause a report of said evaluation to be submitted for the Board. Respondent shall be responsible for the fee of the consultant for the evaluation and report.

4. Immediately prior to Respondent's petition for reinstatement of his licensure, he shall submit and make himself available for evaluation by the Impaired Dentist's Program and shall submit to any recommendations of the Impaired Dentist Program which may include urine monitoring. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either by volunteer or drug clinic staff as arranged and designated by the Impaired Dentist Program. The initial drug screening will utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry. The testing procedure will include a forensic chain of custody protocol to ensure sampling integrity and to provide documentation to withstand a legal challenge. The Impaired Dentist Program shall be responsible to ensure that all urine samples are handled by a laboratory competent to provide these services. All tests results shall be provided in the first instance directly to the Impaired Dentist Program, and any positive results will be reported immediately by the Impaired Dentist Program to Agnes Clarke, Executive Director of the Board of Dentistry or her designee in the event she is unavailable. The Board retains sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing. Any failure by Dr. Marks to submit or provide a urine sample within twenty four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event that Dr. Marks is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility consent to waive that

days' test must be secured from Dr. Fredrick Rotgers or Dr. Barbara McCrady of the Impaired Dentist Program. Neither the volunteer or drug clinic staff shall be authorized to consent to waive a urine test. The Impaired Dentist Program shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each case. Dr. Marks shall be responsible for all costs connected with the urine monitoring program. Dr. Marks shall provide appropriate releases to any and all parties who are participating in the monitoring program described herein as may be required in Order that all reports, records and other information may be provide to the Board in a timely manner. Respondent shall cause and permit the staff or other designee of the Impaired Dentist Program to disclose to the Board any evaluation has made of the Respondent as well as any recommendations and any other pertinent information. This shall include advising the Board of any programs in which Respondent engages, including urine monitoring, and keeping the Board advised as to Respondent progress and successful completion on an ongoing basis.

5. Nothing herein shall prevent the Board from taking formal disciplinary action at any time in the future if it determines in its discretion that it is in the best interest of the public to do so.



William Cinotti, D.D.S., President
STATE BOARD OF DENTISTRY