

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	NOTICE OF CHARGES
Kenneth J. Headen, M.D.,)	AND ALLEGATIONS;
)	NOTICE OF HEARING
Respondent.)	

The North Carolina Medical Board (hereafter Board) has preferred and does hereby prefer the following charges and allegations:

1. The Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes.

2. Kenneth J. Headen, M.D. (hereafter Dr. Headen), is a physician licensed by the Board on or about March 26, 1994, to practice medicine and surgery, license number 94-00266.

3. During the times relevant herein, Dr. Headen practiced medicine in Reidsville and Burlington, North Carolina.

4. Beginning in 2005, the Board had concerns with Dr. Headen's treatment of patients suffering from pain. Dr. Headen is trained as a psychiatrist and his specialty is psychiatry. The Board observed that Dr. Headen prescribed narcotics to patients for chronic pain without much in the manner of documenting the patients' etiology of their pain, the rationale for the

prescriptions, the use of other therapies for their pain, and monitoring the efficacy of the medications for the patients' complaints of pain. Furthermore, it appeared that Dr. Headen had become a source of controlled substances for drug-seeking patients. As a result of these concerns, Dr. Headen informed the Board that he would cease treating chronic pain and attend a narcotics prescribing course.

5. Dr. Headen did attend a prescribing course in November 2006; however, he never ceased treating chronic pain.

6. In December 2007, the Board reviewed several of Dr. Headen's patients' charts. All of the patients had been treated for complaints of pain by Dr. Headen after Dr. Headen's attendance of the prescribing course.

7. Dr. Headen's treatment of Patients A through E was below acceptable and prevailing standards of medical practice in North Carolina. Specifically, Dr. Headen treated these patients for pain without a physical examination and without any collateral source of documentation or information regarding the patients' physical condition. Several of the patients violated their pain management contracts with Dr. Headen without consequence. Patients failed drug tests yet Dr. Headen never discussed these failed test results with the patients and still continued to prescribe controlled substances to the patients even after they failed a drug test. Dr.

Headen continued to prescribe controlled substances to these patients even after Dr. Headen knew or should have known that the patients had a drug abuse problem.

8. As to Patient A, Dr. Headen prescribed methadone, 100 milligrams per day, to this patient on a long term basis. There is no physical examination, medical history or collateral documentation, such as records of hospitalizations, operations, or serious illnesses, to discern what Patient A's pain disorder was. There were no consultations with any neurologists, physiatrists, or orthopaedic physicians. There were no x-rays. In short, there was nothing in Dr. Headen's medical record of Patient A to show why Patient A had pain and why she was prescribed methadone on a continual basis. Furthermore, Patient A was treated previously for opioid addiction and carried a diagnosis of opioid dependence, and Dr. Headen knew this about Patient A but nonetheless continued to prescribe methadone to her on an on-going basis.

9. Dr. Headen diagnosed Patient B with several conditions, including pain disorder and opioid dependency. Dr. Headen did note that Patient B had a history of degenerative joint disease of the back and skin cancer to his hands. There was no evidence however that Dr. Headen ever examined Patient B's hands or back. Dr. Headen also noted that Patient B had a former treating physician, however, Dr. Headen never obtained that physician's medical records

prior to prescribing controlled substances to this patient. Dr. Headen treated Patient B for pain with daily doses of Percocet® (oxycodone and acetaminophen) and methadone. After more than a year of treating Patient B for pain, Dr. Headen was informed by another health care provider that Patient B was obtaining narcotics from other physicians. Despite this knowledge, Dr. Headen continued to prescribe narcotics to Patient B.

10. Dr. Headen treated Patient C for chronic pain. Patient C had a history of receiving workers' compensation for injuries to his right shoulder, arm and back. Dr. Headen treated Patient C's complaints of pain and other conditions with multiple medications, including some controlled substances. These medications included methadone, Tranxene® (clorazepate), Cymbalta® (duloxetine) and Focalin XR® (dexmethylphenidate). There were no records of a physical examination, consultation reports with other physicians, or x-ray studies to document Patient C's source of pain. Patient C did have a history of being treated at a hospital pain clinic, however, there is no evidence that Dr. Headen obtained Patient C's discharge summary from that hospital pain clinic.

11. Patient D was diagnosed by Dr. Headen with pain disorder and other psychological conditions. Patient D's complaint of pain involved migraine headaches. Dr. Headen prescribed Percocet® to Patient D (to be taken four times a day), along with Symbyax®

(fluoxetine and olanzapine) and Xanax® (alprazolam) for Patient D's other diagnoses. There was no evidence of any neurologic examination performed on Patient D, nor was there any evidence of any consultation with another physician in regard to Patient D's complaints of migraine headache pain. Dr. Headen also prescribed Valium® (diazepam) to Patient D in August, 2006, ten (10) milligrams per tablet to be taken six (6) times per day as needed. This dose exceeded the generally recommended dosage.

12. Patient E was arrested in May 2007 in Kentucky for possession of narcotics. Prior to her arrest, Patient E's husband had died of a drug overdose. At the time of her arrest, Dr. Headen had prescribed several controlled substances to Patient E, including Percocet®, methadone, Adderal® (amphetamine mixed salts), Rozerem® (ramelteon), Effexor® (venlafaxine) and Lithobid® (lithium carbonate). Dr. Headen had diagnosed Patient E with several ailments including migraine headaches. There are no physical or neurological examinations or consultation reports to confirm or validate Dr. Headen's diagnosis of migraine headaches for Patient E. On May 1, 2007, Dr. Headen discharged Patient E from his practice for violating her controlled substances agreement with Dr. Headen. However, on May 23, 2007, Dr. Headen entered into another agreement with Patient E and began prescribing controlled substances again to Patient E. Specifically, on May 23, 2007, Dr.

Headen removed Patient E from methadone and began Patient E on Ultram® (tramadol HCl).

13. As evidenced by the conduct described above, Dr. Headen committed unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit his license to practice medicine and surgery issued by the Board or deny any application he might make in the future.

NOTICE TO DR. HEADEN

Pursuant to N.C. Gen. Stat. § 90-14.2, it is hereby ordered that a hearing on the foregoing Notice of Charges and Allegations will be held before the Board, or a panel thereof, at 8:00 a.m., on Wednesday, August 20, 2008, or as soon thereafter as the Board may hear it, at the offices of the Board, 1203 Front Street, Raleigh, North Carolina, to continue until completed. The hearing will be held pursuant to N.C. Gen. Stat. § 150B-40, 41, and 42, and N.C. Gen. Stat. § 90-14.2, 14.4, 14.5, and 14.6. You may appear personally and through counsel, may cross-examine witnesses and present evidence in your own behalf. You may, if you desire, file

written answers to the charges and complaints preferred against you within 30 days after the service of this notice.

The identities of Patients A through E and the date and place of treatment of these patients are being withheld from public disclosure pursuant to N.C. Gen. Stat. § 90-8. However, this information will be provided to you upon your request.

Pursuant to N.C. Gen. Stat. § 150B-40(c)(5), it is further ordered that the parties shall arrange a pre-hearing conference at which they shall prepare and sign a stipulation on pre-hearing conference substantially in the form attached hereto. The pre-hearing stipulation shall be submitted to the undersigned no later than seven days prior to the hearing date.

The right to be present during the hearing of this case, including any such right conferred or implied by N.C. Gen. Stat. § 150B-40(d), shall be deemed waived by a party or his counsel by voluntary absence from the Board's office at a time when it is known that proceedings, including deliberations, are being conducted, or are about to be conducted. In such event the proceedings, including additional proceedings after the Board has retired to deliberate, may go forward without waiting for the arrival or return of counsel or a party.

This the 5th day of June, 2008.

NORTH CAROLINA MEDICAL BOARD

By: Janelle A Rhyne MD, FACP
Janelle A. Rhyne, M.D.
President

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
Kenneth Jay Headen, M.D.,)	AFFIDAVIT OF SERVICE
)	
Respondent.)	

Marcus Jimison first being duly sworn, deposes and says as follows:

1. That a copy of the Notice of Charges and Allegations; Notice of Hearing in the above-captioned contested case was deposited in the post office for mailing to Respondent by certified mail.

2. That it was in fact received as evidenced by the attached copy of the Delivery Notice/Reminder/Receipt (PS Form 3811).



Marcus Jimison

Sworn to and subscribed before me,
this the 17th day of June, 2008.



Notary Public

(Seal)

My Commission expires: 11-14-09

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: *Legal-noc-net*
2005-193
MS-LE

KENNETH J HEADEN MD
 804 S CHURCH ST
 BURLINGTON NC 27215

COMPLETE THIS SECTION ON DELIVERY

A. Signature *X* *Wanda S. Phillips* ☒ Agent ☐ Addressee

B. Received by (Printed Name) *Wanda S. Phillips* C. Date of Delivery *6-6*

D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☒ Yes

JUN 8 2005
 NORTH CAROLINA
 MEDICAL BOARD

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BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Kenneth J. Headen, MD) MOTION TO CONTINUE
)
Respondent)

THIS CAUSE coming before the North Carolina Medical Board (hereafter "Board") upon this Motion to Continue filed on behalf of Respondent, Kenneth J. Headen, MD, by counsel Mary Boyce Wells. Respondent respectfully requests the Board to grant this Motion to Continue and reschedule the hearing scheduled for August 20, 2008 in the above-captioned matter. In support of this motion Respondent respectfully submits the following:

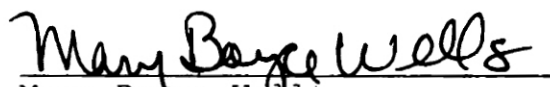
1. Notice of Charges and Allegations were issued against the Respondent on June 5, 2008 and a hearing was scheduled for August 20, 2008.

2. Respondent recently retained counsel, Mary Boyce Wells, to represent him at the hearing on the Notice of Charges and Allegations.

3. Counsel needs additional time to prepare for hearing on these matters.

4. Board Counsel, Marcus Jimison, has no objection to this Motion to Continue.

WHEREFORE, counsel respectfully requests the Board to grant this Motion to Continue and reschedule the hearing in the above-captioned manner currently scheduled for August 20, 2008.


Mary Boyce Wells
Attorney for Respondent
3608=200 Davis Drive #333
Morrisville, NC 27560
919-630-8960

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Kenneth J. Headen, M.D.,) ORDER
)
Respondent.)

This matter is before the undersigned President of the North Carolina Medical Board regarding the hearing scheduled for August 20, 2008 in the above-captioned case. Upon consideration of Respondent's Motion to Continue, I hereby enter the following ORDER:

The hearing scheduled for August 20, 2008 is continued and shall be heard at 8:00 a.m. on October 15, 2008 or as soon thereafter as the Board or a panel thereof may hear it.

This the 20th day of August, 2008.

NORTH CAROLINA MEDICAL BOARD

By: Janelle A. Rhyne MD, FACP
Janelle A. Rhyne, M.D.
President

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

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In re:)
)
Kenneth J. Headen, MD) MOTION TO CONTINUE |
)
Respondent)

THIS CAUSE coming before the North Carolina Medical Board (hereafter "Board") upon this Motion to Continue filed on behalf of Respondent, Kenneth J. Headen, MD, by counsel Mary Boyce Wells. Respondent respectfully requests the Board to grant this Motion to Continue and reschedule the hearing scheduled for October 15, 2008 in the above-captioned matter. In support of this motion Respondent respectfully submits the following:

1. Undersigned Counsel and Board Attorney Marcus Jimison are negotiating a Consent Order which, if accepted by the Board, would resolve the outstanding Notice of Charges and Allegations and alleviate the need for a hearing in this matter.

2. Board Counsel, Marcus Jimison, has no objection to this Motion to Continue.

WHEREFORE, Undersigned Counsel respectfully requests the Board to grant this Motion to Continue and reschedule the hearing in the above-captioned manner currently scheduled for October 15, 2008.

Respectfully submitted, this the 7th day of October, 2008.

Mary Boyce Wells

Mary Boyce Wells

Attorney for Respondent

3608=200 Davis Drive #333

Morrisville, NC 27560

919-630-8960

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)
)
Cases Noticed for)
Hearing Before a) ORDER
Hearing Panel of the)
North Carolina Medical Board)
October 15-16, 2008)

Pursuant to N.C. Gen. Stat. Section 90-14.5, the undersigned President of the North Carolina Medical Board hereby appoints the following Hearing Officers to hear those cases noticed for hearing October 15-16, 2008:

Janelle A. Rhyne, MD, Board Member

Ralph C. Loomis, MD, Board Member

Thomas R. Hill, MD, Board Member

Ms. Thelma Lennon, Board Member

Charles L. Garrett, Jr., MD, Former Board Member

Stephen M. Herring, MD, Former Board Member

The foregoing Hearing Officers will be assigned to specific panels and cases when the docket is called at 8:00 a.m., October 15, 2008.

This the Sixth day of October, 2008.

NORTH CAROLINA MEDICAL BOARD

Janelle A Rhyne MD, FACP

By: _____

Janelle A. Rhyne, MD
President

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
Kenneth J. Headen, M.D.,)	ORDER
)	
Respondent.)	

This matter is before the undersigned President of the North Carolina Medical Board regarding the hearing scheduled for October 15, 2008 in the above-captioned case. Upon consideration of Respondent's Motion to Continue, I hereby enter the following ORDER:

The hearing scheduled for October 15, 2008 is continued and shall be heard at 8:00 a.m. on February 18, 2009 or as soon thereafter as the Board or a panel thereof may hear it.

This the 13th day of October, 2008.

NORTH CAROLINA MEDICAL BOARD

By: Janelle A. Rhyne MD, FACP
Janelle A. Rhyne, M.D.
President

**BEFORE THE
NORTH CAROLINA MEDICAL BOARD**

In re:)
)
 Kenneth J. Headen, MD) MOTION TO CONTINUE
)
 Respondent)

THIS CAUSE coming before the North Carolina Medical Board (hereafter "Board") upon this Motion to Continue filed on behalf of Respondent, Kenneth J. Headen, MD by counsel Mary Boyce Wells. Respondent respectfully requests the Board to grant this Motion to Continue and continue the hearing scheduled for February 18, 2009. In support of this motion Respondent respectfully submits the following:

1. Undersigned counsel and Board Attorney Marcus Jimison are negotiating a Consent Order, which, if accepted by the Board, would resolve the outstanding charges and allegations and alleviate the need for a hearing in this matter.
2. Board Counsel, Marcus Jimison, has no objection to this Motion to Continue.

Wherefore, undersigned counsel respectfully requests the Board to grant this Motion to Continue and reschedule the hearing in the above-captioned matter currently scheduled for February 18, 2009.

Respectfully submitted, this the 6th day of February, 2009.

Mary Boyce Wells
Mary Boyce Wells, Attorney for Respondent
Young, Moore, Henderson, PA
PO Box 31627
Raleigh, NC 27622
919-861-5089

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

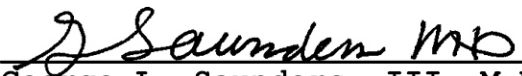
In re:)	
)	
Kenneth J. Headen, M.D.,)	ORDER
)	
Respondent.)	

This matter is before the undersigned President of the North Carolina Medical Board regarding the hearing scheduled for February 18, 2009, in the above-captioned case. Upon consideration of Respondent's Motion to Continue, I hereby enter the following ORDER:

The hearing scheduled for February 18, 2009, is continued and shall be heard at 8:00 a.m. on April 15, 2009, or as soon thereafter as the Board or a panel thereof may hear it.

This the 16th day of February, 2009.

NORTH CAROLINA MEDICAL BOARD

By: 
George L. Saunders, III, M.D.
President

BEFORE THE
NORTH CAROLINA MEDICAL BOARD

In re:)	
)	
Kenneth Jay Headen, M.D.,)	CONSENT ORDER
)	
Respondent.)	

This matter is before the North Carolina Medical Board (hereafter "Board") on a Notice of Charges and Allegations dated March 7, 2008 regarding Kenneth Jay Headen, M.D. (hereafter "Dr. Headen"). Dr. Headen admits, and the Board finds and concludes, that:

Whereas, the Board is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Article 1 of Chapter 90 of the North Carolina General Statutes, and

Whereas, Dr. Headen is a physician licensed by the Board on or about March 26, 1994, to practice medicine and surgery, license number 94-00266, and

Whereas, during the times relevant herein, Dr. Headen practiced medicine in Reidsville and Burlington, North Carolina, and

Whereas, beginning in 2005, the Board had concerns with Dr. Headen's treatment of patients suffering from pain, and

Whereas, Dr. Headen is trained as a psychiatrist and his specialty is psychiatry, and

Whereas, the Board observed that Dr. Headen prescribed narcotics to patients for chronic pain without much in the manner of documenting the patients' etiology of their pain, the rationale for the prescriptions, the use of other therapies for their pain, and monitoring the efficacy of the medications for the patients' complaints of pain. Furthermore, it appeared that Dr. Headen had become a source of controlled substances for drug-seeking patients, and

Whereas, as a result of these concerns, Dr. Headen informed the Board that he would cease treating chronic pain and attend a narcotics prescribing course, and

Whereas, Dr. Headen did attend a prescribing course in November 2006; however, he never ceased treating chronic pain, and

Whereas, in December 2007, the Board reviewed several of Dr. Headen's patients' charts and all of the patients had been treated for complaints of pain by Dr. Headen after Dr. Headen's attendance of the prescribing course, and

Whereas, Dr. Headen's treatment of Patients A through E was below acceptable and prevailing standards of medical practice in North Carolina. Specifically, Dr. Headen treated these patients

for pain without a physical examination and without any collateral source of documentation or information regarding the patients' physical condition. Several of the patients violated their pain management contracts with Dr. Headen without consequence. Patients failed drug tests yet Dr. Headen never discussed these failed test results with the patients and still continued to prescribe controlled substances to the patients even after they failed a drug test. Dr. Headen continued to prescribe controlled substances to these patients even after Dr. Headen knew or should have known that the patients had a drug abuse problem, and

Whereas, Patient G was a young woman who presented to Dr. Headen on August 1, 2007, and

Whereas, although Patient G was referred to him for mental health reasons, Dr. Headen began to treat her for chronic pain and prescribed methadone to Patient G for her pain, and

Whereas, prior to his prescribing of methadone to Patient G ostensibly for pain, Dr. Headen failed to do a physical examination of Patient G or request Patient G's prior medical records from an emergency room visit or from her primary physician to verify the etiology of Patient G's reported pain, and

Whereas, on October 11, 2007, Patient G presented to Dr. Headen for a refill of her methadone prescription and Dr. Headen authorized this refill without seeing or examining Patient G, and

Whereas, on the next day, October 12, 2007, Patient G used the methadone prescribed to her by Dr. Headen to overdose, and

Whereas, Patient H presented to Dr. Headen for drug addiction, and

Whereas, Dr. Headen prescribed buprenorphine to treat Patient H's drug addiction; however, Dr. Headen noted on Patient H's prescription that the reason for the prescription was for "pain," and

Whereas, Dr. Headen admitted that Patient H did not have a pain problem and that he was treating her drug addiction with buprenorphine, and

Whereas, Dr. Headen did not have United States Drug Enforcement Agency ("DEA") authorization to prescribe buprenorphine for drug addiction/ detoxification but he could prescribe the drug to patients for pain management, and

Whereas, Dr. Headen reports he could prescribe buprenorphine to one patient for drug addiction prior to receiving DEA authorization and Patient H was intended to be that patient, and

Whereas, even if Patient H was intended to be the one patient Dr. Headen could treat for drug addiction/detoxification with buphrenorphine prior to receiving DEA approval, the notation on her prescription that the drug was intended for "pain" was misleading and false, and

Whereas, a review of Dr. Headen's patient records makes it difficult to determine whether he prescribed methadone and buphrenorphine for purposes of pain management or detoxification, and

Whereas, Dr. Headen's conduct, as described above, constitutes unprofessional conduct, including, but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether a patient is injured thereby, within the meaning of N.C. Gen. Stat. § 90-14(a)(6), and grounds exist under that section of the North Carolina General Statutes for the Board to annul, suspend, revoke, or limit his license to practice medicine and surgery issued by the Board or deny any application he might make in the future, and

Whereas, Dr. Headen would like to resolve this matter without the need for more formal proceedings, and

Whereas, the Board has determined that it is in the public interest to resolve this case as set forth below;

Now, therefore, with Dr. Headen's consent, it is ORDERED that:

1. Dr. Headen's North Carolina medical license is hereby SUSPENDED for a period of TWO (2) YEARS. This Suspension is hereby STAYED, except for FORTY FIVE (45) DAYS, wherein beginning on May 16, 2009, Dr. Headen shall serve an active suspension with such active suspension ending on June 29, 2009.

2. Dr. Headen's license to practice medicine is LIMITED. Beginning from the date of this Consent Order, Dr. Headen shall not prescribe Schedule II and Schedule III controlled substances and buphrenorphine to any patient for any purpose. Dr. Headen may still prescribe Schedule IIN and Schedule IIIN controlled substances.

3. Dr. Headen will be placed on PROBATION for TWO (2) YEARS from the date of this Consent Order under the following conditions:

4. Dr. Headen shall obey all laws. Likewise, he shall obey all rules and regulations involving the practice of medicine.

5. Dr. Headen shall notify the Board in writing of any change in his residence or practice addresses within ten (10) days of the change.

6. Dr. Headen shall meet with the Board or members of the Board for an informal interview at such times as requested by the Board.

7. If Dr. Headen fails to comply with any of the terms of this Consent Order, that failure shall constitute unprofessional conduct within the meaning of N.C. Gen. Stat. § 90-14(a)(6) and shall be grounds, after any required notice and hearing, for the Board to annul, suspend, or revoke his license to practice medicine and surgery and to deny any application he might make in the future or then have pending for a license.

8. This Consent Order shall take effect immediately upon its execution by both Dr. Headen and the Board and it shall continue in effect until specifically ordered otherwise by the Board.

9. Dr. Headen hereby waives any requirement under law or rule that this Consent Order be served on him.

10. Upon execution by Dr. Headen and the Board, this Consent Order shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the

provisions thereof. Additionally, it will be reported to persons, entities, agencies, and clearinghouses as required by and permitted by law including, but not limited to, the Federation of State Medical Boards, the National Practitioner Data Bank, and the Healthcare Integrity and Protection Data Bank.

This the 20th day of March, 2009.

NORTH CAROLINA MEDICAL BOARD

By:



George L. Saunders, III, M.D.
President

Consented to this the 20 day of March, 2009.


Kenneth Jay Headen, M.D.

State of North Carolina

County of Wake

I, Diana L. Edwards, a Notary Public for the above named County and State, do hereby certify that Kenneth Jay Headen, M.D., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal

this the 20th day of March, 2009.

Diana L. Edwards
Notary Public

(SEAL)

My Commission expires: 11-14-09