

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
PROGRESSIVE MEDICAL AND DIAGNOSTIC
SERVICES, P.C.

CONSENT
AGREEMENT
AND ORDER

BPMC No. #08-107

PROGRESSIVE MEDICAL AND DIAGNOSTIC SERVICES, P.C. (Respondent) says:

The Respondent is a professional service corporation duly authorized to practice medicine in New York State by the filing with the Department of State on December 4, 1997, of a certificate of incorporation, pursuant to Article 15 of the Business Corporation Law.

The Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the pre-hearing and hearing procedures of Title II-A of Article 2 of the New York Public Health Law, pursuant to § 1503(d) of the Business Corporation Law.

The Respondent is applying to the State Board for Professional Medical Conduct for a Consent Agreement and Order imposing a penalty, pursuant to § 230-a of the Public Health Law and § 1503(d) of the Business Corporation Law, of annulment of its certificate of incorporation such that the annulment shall be effective immediately and shall be self-executing, and this Consent Agreement and Order shall be deemed automatically to be the final and operative document annulling the Respondent's certificate of incorporation, and the Respondent requests that the Board issue this Consent Agreement and Order.

The Respondent acknowledges that it has been charged with professional misconduct as set forth in the Statement of Charges, annexed, hereto, made a part hereof, and marked as Exhibit "A."

Subject to the terms, conditions and limitations of this Consent Agreement and Order, the Respondent admits the allegations and specifications set forth in the Specification of the Statement of Charges in full satisfaction of all such allegations and specifications.

The Respondent agrees that, in the event the State Board for Professional Medical Conduct agrees with its proposal, this Consent Agreement and Order shall be issued annulling its certificate of incorporation. The Respondent agrees that such annulment shall be effective immediately and shall be self-executing, and this Consent Agreement and Order shall be deemed automatically to be the final and operative document annulling the Respondent's certificate of incorporation. The Respondent agrees, notwithstanding the above, nothing herein shall be construed to absolve the Respondent in any way from paying the Departments of State, Education, and Taxation and Finance any outstanding taxes, fines and penalties. This Consent Agreement and Order, and all Exhibits, shall be public documents, with only patient identities, if any, redacted. As public documents, they may be posted on the Department's website.

In addition, the Respondent agrees that this Consent Agreement and Order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of this Consent Agreement and Order to it in care of

(Resident) Ahmed Erfan Halima, M.D., Redacted Address
, or its attorney, Maria C. Diglio, Esq., Belesi & Conroy, P.C.,
1225 Franklin Avenue, Ste. 400, Garden City, NY 11530, or upon transmission via
facsimile to it or its attorney, whichever is earliest.

The Respondent shall fully cooperate in every respect with the Office of Professional Medical Conduct in its administration and enforcement of this Consent Agreement and Order by written responses, attending meetings or providing documentation concerning verification of its compliance with the terms of this Consent Agreement and Order.

The Respondent stipulates that its failure to comply with any conditions of this Consent Agreement and Order shall constitute misconduct as defined by § 6530(29) of the Education Law. The Respondent agrees that in the event it is charged with professional misconduct in the future for violation or non-compliance with any provisions of this Consent Agreement and Order, or in the event that it is charged with professional misconduct in the future or any other type of misconduct, this Consent Agreement and Order shall be admitted into evidence in that proceeding.

The Respondent acknowledges that, in the event that this proposed agreement is not granted by the State Board for Professional Medical Conduct, nothing contained herein shall be binding upon it or construed to be an admission of any act of misconduct alleged or charged against it, such proposed agreement shall not be used against it in any way, and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; such denial by the State Board for Professional Medical Conduct shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by a Committee on Professional Medical Conduct pursuant to the provisions of the Public Health Law.

The Respondent stipulates that the proposed sanction and Consent Agreement and Order are authorized by §§ 230 and 230-a of the Public Health Law, and that the Board and OPMC have the requisite powers to carry out all included terms. The Respondent is making this application of its own free will and accord and not under duress, compulsion or restraint of any kind of manner. In consideration of the value to it of the acceptance by the Board of this application allowing it to resolve this matter without the various risks and burdens of a hearing on the merits, the Respondent knowingly waives any right it may have to contest, whether administratively or judicially, the Consent Agreement and Order issued hereunder for which it hereby applies, the Respondent agrees to be bound by it, and the Respondent asks that the application be granted.

The Respondent is making this application through its President and Shareholder, Ahmed Halima (also known as Ahmed Erfan Halima and Ahmed Erfan Halima, M.D.), and the Respondent and Ahmed Halima warrant that he has the necessary corporate authority to enter into this Consent Agreement and Order on behalf of the Respondent and to consent on behalf of the Respondent to the annulment of the Respondent's certificate of incorporation.

The Respondent understands and agrees that the attorney for the Department, the Director of OPMC and the Chair of the Board each retain complete discretion either

to enter into the proposed Consent Agreement and Order, based upon its application, or to decline to do so. The Respondent further understands and agrees that no prior or separate written or oral communication can limit that discretion.

Date: ~~April~~ June 3, 2008

PROGRESSIVE MEDICAL AND DIAGNOSTIC SERVICES, P.C.

Redacted Signature

By: _____

AHMED HALIMA

(also known as Ahmed Erfan Halima and Ahmed Erfan Halima, M.D.)

President and Shareholder

State of New York)

County of Bronx)

On the 3rd day of June, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared, AHMED HALIMA, personally known to me or proved to me on the basis of satisfactory evidence, to be the individual whose name is subscribed to within the instrument and acknowledged to me that he executed the same in his capacity as the President and Shareholder of the Respondent, the professional service corporation described in and which executed the above instrument; and that he signed his name thereto by order to the Board of Directors of said corporation, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Redacted Signature

MARIA C. DIGLIO
Notary Public, State of New York
No. 02DI6071788
Qualified in Nassau County
Commission Expires 3/25/20 10

Notary Public

AGREED TO:

Date: ~~April~~ June 3, 2008

Redacted Signature

MARIA C. DIGLIO, ESQ.
BELES & CONROY, P.C.

Attorney for Respondent

Redacted Signature

Date: ~~April~~ June 4, 2008

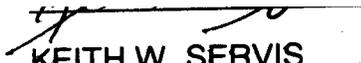
FRANCIS RUDDY

Assistant Counsel

Bureau of Professional Medical Conduct

Date: ~~April~~ 6/16, 2008

Redacted Signature

A redacted signature consisting of a horizontal line with a scribble underneath it.

KEITH W. SERVIS

Director

Office of Professional Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER

OF

**PROGRESSIVE MEDICAL AND DIAGNOSTIC
SERVICES, P.C.**

ORDER

Upon the proposed Consent Agreement and Order of Progressive Medical And Diagnostic Services, P.C., which proposed agreement is made a part hereof, it is **AGREED TO** and

ORDERED, that the Respondent's certificate of incorporation, which was filed by the Department of State on December 4, 1997, is hereby, annulled such that the annulment shall be effective immediately and shall be self-executing, and this Order shall be deemed automatically to be the final and operative document annulling the Respondent's certificate of incorporation.

ORDERED, that the proposed agreement and the provisions thereof, including the Appendix to this Order, are, hereby adopted; it is further

ORDERED, that this order shall be effective upon issuance by the Board, which may be accomplished by mailing, by first class mail, a copy of the Consent Order to the Respondent at the address set forth in this agreement or to the Respondent's attorney by certified mail or upon transmission via facsimile to the Respondent in care of Ahmed Erfan Halima, M.D., or the Respondent's attorney, whichever is earliest.

SO ORDERED.

DATED: 6-17-2008

Redacted Signature

Kendrick A. Sears, M.D.

Chair

State Board for Professional
Medical Conduct

EXHIBIT A

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER
OF
PROGRESSIVE MEDICAL AND DIAGNOSTIC
SERVICES, P.C.

STATEMENT
OF
CHARGES

The Respondent, Progressive Medical and Diagnostic Services, P.C., is a professional service corporation duly authorized to practice medicine in the State of New York by the filing of a certificate of incorporation with the Department of State on December 4, 1997, pursuant to N.Y. Bus. Corp. Law, Article 15. Respondent is subject to the jurisdiction of the State Board for Professional Medical Conduct, and the pre-hearing and hearing procedures of Title II-A of Article 2 of the N. Y. Pub. Health Law, pursuant to N.Y. Bus. Corp. Law §1503(d).

FACTUAL ALLEGATIONS

- A. A professional service corporation may be organized by one or more individuals who are duly authorized by law to render the same professional service, pursuant to the legal requirements of N.Y. Bus. Corp. Law, Article 15, including, but not limited to, §1503(a).
- B. On or about October 25, 1996, Ahmed Erfan Halima, M.D. (also known as Ahmed Halima and/or Ahmed Erfan Halima) (hereinafter "Dr. Halima") was licensed to practice as a physician in the State of New York and issued license number 204777 by the New York State Education Department. Accordingly, at all relevant times, Dr. Halima was duly authorized by law to practice medicine in the State of New York.
- C. Progressive Medical and Diagnostic Services, P.C. (hereinafter "Progressive") is a professional medical corporation formed pursuant to §1503 of the New

York Business Corporation Law, with a Certificate of Incorporation for same filed on December 4, 1997, with the Secretary of State of the State of New York. The original shareholder, officer, and director of the said corporation was Dr. Rafael Garcia.

- D. That on or about February 5, 1999, an amendment to the certificate of incorporation of "Progressive" was filed with the Secretary of State which indicated that Dr. Halima was the sole shareholder, officer, and director of "Progressive," which ownership continues to date.
- E. That since he became the owner of "Progressive" as stated above, Dr. Halima has not in fact been the true owner of same, since "Progressive" was actually owned by other(s) who were not licensed to practice medicine.
- F. Dr. Halima permitted such other(s) to falsely list Dr. Halima's name on corporate papers and public records as the physician who owned and controlled "Progressive."
- G. That Dr. Halima did so to permit such other(s) to secretly own and control "Progressive," since Dr. Halima knew they were legally prohibited from owning and controlling medical practices.
- H. That Dr. Halima was paid \$1,000. to \$2,000. a month for allowing his name to be falsely listed on "Progressive's" ownership records as the physician who owned and controlled "Progressive."
- I. Dr. Halima knew that all profits from "Progressive" were illegally funneled to the aforesaid other(s) through ostensibly legitimate fees for management or billing and collection services.
- J. That Dr. Halima provided signature stamps to the aforesaid other(s) at "Progressive" to open bank accounts, to sign and endorse checks, and to sign narrative reports and bills over Dr. Halima's name.
- K. That Dr. Halima never had any input into or saw any tax returns prepared

for "Progressive," for which Dr. Halima was listed as owner.

- L. That since the amendment to the certificate of incorporation of "Progressive" was filed with the Secretary of State on December 5, 1999, the Respondent has not been in compliance with Section 1503(a) of the New York Business Corporation Law; and yet the Respondent has allowed the status quo to remain in effect. The Respondent, therefore, has willfully failed to comply with the requirements of N.Y. Bus. Corp. Law, Article 15, including, but not limited to, §1503(a).

SPECIFICATION OF MISCONDUCT

FIRST SPECIFICATION

WILLFUL FAILURE TO COMPLY WITH N.Y. BUS. CORP. LAW

Respondent is charged with committing professional misconduct as defined in New York Education Law §6530(12) by willfully failing to comply with sections fifteen hundred three and fifteen hundred fourteen of the New York Business Corporation Law, as alleged in the facts of:

1. Paragraphs A - L.

DATED:

June 5
April, 2008

New York, New York

Redacted Signature

Roy Nemerson

Roy Nemerson
Deputy Counsel
Bureau of Professional
Medical Conduct