



SUPERIOR COURT OF NEW JERSEY  
 CHANCERY DIVISION: MERCER COUNTY  
 DOCKET NO.: C-169-01

JOHN J. FARMER, JR., Attorney General  
 of The State of New Jersey, and MARK  
 S. HERR, Director, New Jersey  
 Division of Consumer Affairs,

Civil Action

Plaintiffs,

vs.

The Pillbox Pharmacy, S & H Drug Mart, Inc.,  
 a/k/a THEPILLBOX.COM, MEDICAL  
 CENTER.NET, ABOUTWELLNESS.COM,  
 Texas Corporations and their Internet Websites,  
 WILLIAM STALLKNECHT, RAYMOND  
 HERNANDEZ, JR., EUGENE HILDEBRAND  
 & ERNESTO CANTU, M.D., residents of Texas,  
 WILLIAM DALE, M.D., a resident of California,  
 & Defendants A through Z.

RECEIVED AND FILED  
 SUPERIOR COURT OF N.J.  
 MERCER COUNTY

OCT 31 2001

Judge del Preche  
 DEPARTMENT OF SUPERIOR COURT

Copy  
 Cantu

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 DIRECTOR OF THE DIVISION OF CONSUMER AFFAIRS

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 On the Brief

Accordingly, Plaintiffs respectfully request that the Court order Defendants to immediately cease their unconscionable commercial practice within the State of New Jersey and grant such other relief as may be appropriate.

### STATEMENT OF FACTS

Defendants Pillbox Pharmacy and William Stallknecht were previously identified through an investigation conducted on behalf of the Enforcement Bureau of the New Jersey Division of Consumer Affairs ("Enforcement Bureau") by Investigator Ann E. Meredith between December 15, 1998 and April 12, 1999 (See Exhibit B - Report of Investigation of Ann E. Meredith, without attachments) During the course of that investigation, Investigator Meredith was able to purchase twenty-nine (29) Viagra 50 milligram tablets in three (3) different shipments after filling out an online questionnaire which claimed that she was taking a substance which is contraindicated to Viagra (Id.). A contraindicated medication is one which, because of its chemical properties, may be harmful if ingested with that particular drug.

Between October 7, 1999 and November 9, 1999, in continuance of the Enforcement Bureau's investigation, Investigator Cyndy M. Gohl of the Enforcement Bureau conducted further investigation into the aforementioned website. Investigator Gohl was also able to purchase Viagra after listing contraindicated medication (medication that is not recommended for use with Viagra, due to the increased risk of serious side effects) in an online questionnaire (See Exhibit C - Report of Investigation of Cyndy M. Gohl, without attachments).

At the conclusion of Investigator Gohl's investigation, plaintiffs filed a complaint against defendants The Pill Box, Inc. and William Stallknecht (hereinafter "Stallknecht"), who was identified through that investigation as the owner of The PillBox Pharmacy and operator of its

website. The complaint, filed by the plaintiffs before the New Jersey Division of Consumer Affairs, alleged violations of the Consumer Fraud Act. That action was settled amicably through a Stipulation of Settlement and Dismissal signed by Stallknecht and approved by the Division of Consumer Affairs on September 21, 2000 (See Exhibit A to Verified Complaint - Stipulation of Settlement and Dismissal filed September 21, 2001). In that Stipulation, Stallknecht agreed to "cease and desist from advertising and/or performing any services relating to the practice of pharmacy where prescriptions are obtained through any website owned or operated by (Pillbox, Inc.)" (Id. at pg. 3).

The terms of that agreement also specified that:

"...Such cessation shall include the advertising and/or engaging in the sale of any and all prescription legend drugs, including but not limited to Viagra and Xenical, to consumers in the state of New Jersey where the original prescriptions for such prescription legend drugs are obtained through any means other than face-to-face visits with licensed prescribers." (Id.).

The agreement also specified that Defendants would pay costs of \$5000 with an additional \$10,000 civil penalty imposed, but stayed, "unless and until respondent engages in any further acts of the natures described herein and proscribed under the terms of the herein order" (Id.).

Between January 19, 2001 and May 23, 2001, Defendants were again investigated through an undercover operation conducted by the Enforcement Bureau and Investigator G. Robert Kern, Jr. ("Investigator Kern") (See Exhibit B to Verified Complaint - Report of Investigation of G. Robert Kern, with attachments). Investigator Kern's investigation was initiated after the New Jersey Governor's office received information from the husband of New Jersey resident C. C.\* C.C. is a 44-year old woman residing in Franklin, Sussex County, New Jersey who has been diagnosed and

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\*Initials are used to protect the privacy of the consumer.

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treated for substance abuse, including prescription painkillers. Through the Pillbox Pharmacy website operated by Stallknecht, C. C. received over nine prescriptions filled for 90 Vicodin ES 7.5/500mg., a Schedule III Controlled Dangerous Substance\* by ordering and receiving the medication between September 19, 2000 and April 27, 2001. The amount of Vicodin given C. C. was beyond that recommended by the manufacturer of the medication, C. C., who was later interviewed by the Enforcement Bureau as part of the aforementioned investigation, revealed that she became aware of the Defendant's website after viewing a television program regarding online pharmacies. After subsequently logging onto the site, C. C. received an e-mail from defendant Brian Hildebrand ("Hildebrand"), purportedly the consultation coordinator for defendant physician Dr. Ernesto Cantu ("Dr. Cantu"), one of the physicians prescribing on behalf of the website. Further investigation revealed that Dr. Cantu is not licensed to practice medicine in New Jersey. Hildebrand scheduled a telephone appointment between C. C. and Dr. Cantu. Subsequently, Dr. Cantu contacted C. C. by telephone and authorized a prescription for Vicodin based on a telephone conversation that lasted less than ten minutes during which the doctor never discussed any precautions related to ingesting such medication and never asked if C. C. was taking other medications which may be contraindicated when using Vicodin (See Exhibit D - pg 4). C. C. had undergone treatment for

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\* In accordance with the Controlled Dangerous Substances Act of 1970, certain narcotics are codified according to their potential for abuse, with Schedule I having the highest potential, Schedule V the lowest [See U.S.C. 21§811]. Vicodin is listed in the 2001 Physician's Desk Reference ("PDR") as an opioid painkiller categorized as a Schedule III Controlled Dangerous Substance. The PDR specifically warns that Vicodin may be habit-forming. Among the many warnings listed pertaining to this drug are the following:

"Psychic dependence, physical dependence, and tolerance may develop upon repeated administration of narcotics; therefore, VICODIN ES tablets should be prescribed and administered with caution...The usual adult dosage is one tablet every four to six hours as needed for pain. The total daily dosage should not exceed five tablets." (See, PHYSICIANS' DESK REFERENCE at 1631 (55th edition, 2001).

excessive use of medication, was presently under the care of a psychiatrist and that she was also ingesting Depokote, Neurontin and Prozac (all Prescription Legend Drugs) for depression and seizures. Dr. Cantu never even asked the pertinent questions that would have divulged such information. (See Exhibit B to Verified Complaint - pg. 4) While the Physician's Desk Reference specifically states that the recommended dosage for Vicodin is no more than five (5) tablets a day, based on the recommendation of the manufacturer, C.C. received far more--between December 8, 2000 and January 17, 2001 alone, C. C. received three hundred tablets of Vicodin in seven separate purchases. That represents over one hundred doses more than recommended by the manufacturer of Vicodin, an addictive Controlled Dangerous Substance.

Further investigation by Investigator Kern revealed that Dr. Cantu, who is licensed to practice medicine in the State of Texas, was the also the subject of discipline from the Texas Board of Medical Examiners. Specifically on December 8, 2000, Dr. Cantu received a public reprimand and limitations on his medical license for a three year period. This action stemmed from allegations that Dr. Cantu rendered inadequate care due to insufficient history and physical examinations, lack of documentation, inadequate laboratory work, inadequate testing and improper prescribing of potentially habit-forming medication (See Exhibit B to Verified Complaint, pg. 5, ¶7).

Sometime in May, 2001, New Jersey resident J. C., the husband of C. C., discovered that C. C. was purchasing Controlled Dangerous Substances over the Internet using a Visa credit card without his knowledge. Aware of his wife's substance abuse problem and concerned about her health, J. C. logged on to the website of the Pillbox pharmacy and made contact with William Stallknecht, the pharmacist and owner of the website and the underlying pharmacy located in San Antonio, Texas. (See Exhibit B to Verified Complaint, pg. 15, ¶ 4- See also Exhibit C to Verified

Complaint, pg. 27, lns. 7 - 9). As stated previously, Stallknecht was also the signatory to the Consent Order entered into on September 21, 2000, in which Stallknecht agreed to cease and desist from allowing online prescribing in New Jersey. J. C. specifically stated in the e-mail that C. C. was substance abuser and that she should not be receiving any further medication. Stallknecht informed C.C.'s husband that he, the pharmacist, only fills prescriptions and that his wife's substance abuse should be taken up with the doctor who prescribes the medication (See Exhibit B to Verified Complaint, pg. 15-¶ 4 & exhibit 3D therein).

On May 11, 2001, based on sworn testimony of C. C. and her husband at an investigative inquiry, the Enforcement Bureau assigned Investigator Kern to effect further purchases, undercover, of prescription medication from the Pillbox.com website. Accordingly, while purporting to be Stanley Wicker, a 47-year old New Jersey resident, Investigator Kern was able to make a purchase of Phentermine\* 30mg. (a Schedule IV Controlled Dangerous Substance). The physician's "consultation" offered to Investigator Kern, as Stanley Wicker, was orchestrated by defendant Brian Hildebrand on behalf of the defendant website (See Exhibit B to Verified Complaint - pg. 26 - 28). The subsequent "prescription" was eventually authorized over the phone by defendant Dr. William Dale ("Dr. Dale"), a California physician who is not licensed to practice in New Jersey. Dr. Dale authorized the medication after approximately three minutes of telephone conversation between Dr.

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\*Phentermine is an oral medication prescribed by physicians to enhance weight loss in persons with obesity. Phentermine is listed in the Physician's Desk Reference ("PDR") as a Schedule IV Controlled Dangerous Substance. The PDR warns that "The safety and efficacy of combination therapy with Phentermine and any other drug products for weight loss, including selective serotonin reuptake inhibitors (e.g., fluoxetine, sertraline, fluvoxamine, paroxetine), have not been established. Therefore, coadministration of these drug products for weight loss is not recommended" The PDR also warns that Phentermine is closely associated with Amphetamines, abuse of which "may be associated with intense psychological dependence and severe social dysfunction" PHYSICIAN'S DESK REFERENCE at 1293 (55th Edition, 2001).

Dale and Investigator Kern, (Stanley Wicker) (Id. at pg. 29 - 30) . During the entire conversati  
Dr. Dale never discussed with Investigator Kern the precautions involved with taking the medicati  
Exactly ten days later, on May 11, 2001, Investigator Kern received a UPS package containing  
Phentermine 30mg. capsules. (See Exhibit B to Verified Complaint - pg. 5).

Investigator Kern also discovered that Dr. Dale had been disciplined by the Medical Board  
of California on July 11, 1997 for practicing under a fictitious name without a fictitious name permit  
and for failing to maintain and make available for inspection an current inventory of dangerous  
drugs. (See Exhibit C - pg. 5).

The State of Missouri instituted an action against Pillbox.com and its owner, William  
Stallknecht, in the Summer of 1999, under the Missouri Merchandising Practices Act § 407.010 et  
seq. based on the issuance of prescription drugs to Missouri consumers by persons unlicensed to  
practice medicine in the State of Missouri and based only upon an online questionnaire or telephone  
prescription, without the benefit of a physical examination. The Missouri Attorney General obtained  
a consent judgement against the website on the first day of a scheduled trial in October of 1999. The  
settlement included an injunction which prohibited Stallknecht and the website from filling any  
prescription, prescription drug order or telephone prescription for any Missouri resident if the same  
is not issued by a health care practitioner licensed in the State of Missouri and based on a physical  
examination conducted personally by that same practitioner. (See Exhibit D to Verified Complaint -  
Consent Permanent Injunction and Final Judgement, dated October 25, 1999, Circuit Court of  
Jackson County, Missouri at Kansas City).

The Pillbox pharmacy's website address was identified during the previous investigation of  
the same online entity in 1999. Investigator Kern also utilized the Internet Domain Network Systems