

STATE OF INDIANA
IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT

MISC. CAUSE NO.: _____

IN RE: IMMEDIADENT OF
INDIANA, P.C.,

Respondent.

**ASSURANCE OF VOLUNTARY
COMPLIANCE**

I. INTRODUCTION

1. The State of Indiana, by Attorney General Theodore E. Rokita, Deputy Attorney General Michelle Alyea, and Deputy Director, Consumer Protection Division, Steven A. Taterka, and the Respondent, ImmediaDent of Indiana, P.C., (“ImmediaDent”) enter into this Assurance of Voluntary Compliance (“Assurance”), pursuant to Ind. Code § 24-5-0.5-7.

2. The State of Indiana alleges that ImmediaDent may have failed to fully comply with Indiana’s Deceptive Consumer Sales Act (“DCSA”), Ind. Code § 24-5-0.5-1 *et seq.*, in their practices related to refunds to Indiana consumers and responses to requests for medical records at the time dental practices operated by ImmediaDent ceased operations on or about March 2020.

II. PARTIES

3. The Attorney General is authorized to enter into this Assurance and file this Assurance with the Marion County Superior or Circuit Court pursuant to Indiana Code § 24-5-0.5-7.

4. ImmediaDent is an Indiana professional corporation with a principal place of business at 10601 Mission Road Ste 240, Leawood, Kansas, 66206.

III. FACTS

5. ImmediaDent was owned and operated by Indiana-licensed dentists and maintained dental practices at various locations throughout Indiana using the trade name “ImmediaDent.”

6. On March 16, 2020, ImmediaDent permanently closed all of its dental practices located in Indiana.

7. Respondent previously sent refund checks that have not been cashed to approximately sixty-nine (69) patients or responsible parties owed a refund totaling approximately eighteen thousand seven hundred eighty-one dollars and fifteen cents (\$18,781.15).

8. Separately, ImmediaDent has employed the services of a forensic accounting firm to identify patient accounts with outstanding credit balances at the time that ImmediaDent closed its Indiana dental practices. The accounting firm has identified approximately twenty-two thousand four hundred forty-seven (22,447) patient accounts that have outstanding credit balances totaling

approximately two million fifty-one thousand nine dollars and fifty cents (\$2,051,009.50).

9. To address refunds of the outstanding credits, ImmediaDent has voluntarily agreed to enter into this Assurance.

IV. AGREEMENT

10. The terms of this Assurance apply to, and are binding upon, ImmediaDent, its employees, agents, representatives, successors, and assigns.

11. This Assurance of Voluntary Compliance is not intended to be, and should not be construed as, an admission by ImmediaDent of a statutory violation of the Deceptive Consumer Sales Act (“DCSA”), Ind. Code § 24-5-0.5-1, *et seq.*, nor as an abandonment by the Attorney General that ImmediaDent acted in violation of such statute.

12. ImmediaDent shall not commit any unfair, abusive, or deceptive acts or practices in connection with consumer transactions in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.*

13. ImmediaDent acknowledges the requirements of Ind. Code § 25-14-1-25.5 and 828 Ind. Admin. Code 1-1-24 for all dental practices previously owned and operated by ImmediaDent of Indiana, P.C. and has made reasonable and good faith arrangements with the dentist’s former patients, *i.e.* patients whom the practices’ dentists examined, treated, cared for, or otherwise consulted during the two (2) year period before discontinuation of the practice, for the

transfer of the dentist's records, or copies of the records, to the succeeding dentist or, at the written request of the patient, to the patient, in compliance with Indiana Code § 16-39.

14. ImmediaDent shall comply with all requirements of Ind. Code § 25-14-1-25.5 and 828 Ind. Admin. Code 1-1-24 for all dental practices currently or previously owned and operated by ImmediaDent.

15. ImmediaDent also agrees to ensure medical records are maintained and responses to records requests for former ImmediaDent patients occur for the remainder of the seven years required under Ind. Code § 16-39.

16. Upon execution of this Assurance, ImmediaDent agrees to the following:

- a. ImmediaDent shall hire a third-party firm (the “Administrator”) to administer processes relating to notifying patients of credits, refunding patient credits, and handling all unclaimed refunds as described below. ImmediaDent shall promptly provide the identity and contact information of the Administrator to the Attorney General.
- b. For each patient owed a refund, ImmediaDent shall provide the Administrator with the address on file for the patient or responsible party. ImmediaDent shall instruct the Administrator to identify the most recent mailing address of each patient or responsible party

through the use of publicly available databases, commercially available databases, and/or public records.

- c. For each patient owed a refund, ImmediaDent shall fund a segregated account with an FDIC insured financial institution of its choice with the outstanding credits totaling approximately two million fifty-one thousand nine dollars and fifty cents (\$2,051,009.50). ImmediaDent agrees that such funds may only be provided to each patient or responsible party owed a refund or to the Indiana Attorney General's Unclaimed Property Fund. Under no circumstances shall funds be used for any other purpose.
- d. For all patients for whom an address can be identified, ImmediaDent shall instruct the Administrator to send a notice of eligibility for unclaimed funds to the patient or responsible party at the address identified by the Administrator as their most recent mailing address. The content of the notice shall comply with all notice requirements of the Indiana Unclaimed Property law at Ind. Code §§ 32-34-1.5-23 and -24 and shall be approved by the Attorney General.
- e. If no response is received from the patient within 60 days of mailing of the notice, or if a current address cannot be found despite diligent efforts on the part of the Administrator to identify one, the funds shall be treated as unclaimed property in accordance with Indiana

Unclaimed Property laws, Ind. Code § 32-34 *et seq.* Specifically, ImmediaDent, or the Administrator acting on its behalf, shall, within one hundred twenty (120) days of sending the notices, provide to the Attorney General a report identifying the funds to be remitted to the Indiana Unclaimed Property Fund in compliance with the requirements of Ind. Code § 32-34-1.5-18 and shall, within such time period, remit such funds to the Attorney General in accordance with Ind. Code § 32-34-1.5-29.

- f. ImmediaDent shall not deduct any dormancy or other charge from refunds paid to patients and/or remitted to the Attorney General.
- g. ImmediaDent shall continue to keep the Attorney General apprised of any necessary adjustments to implement this plan and the dissolution process of the applicable business. Any adjustments to the plan must be approved by the Attorney General prior to implementation.

17. Commensurate with the process set forth above in paragraph 16, ImmediaDent agrees to send a notice of unclaimed funds to the approximately sixty-nine (69) patients or responsible parties owed a refund totaling approximately eighteen thousand seven hundred eighty-one dollars and fifteen cents (\$18,781.15) for checks that were never cashed. Respondent will fund the aforementioned segregated bank account with these monies.

18. ImmediaDent agrees to accomplish all notice for unclaimed funds and complete its obligations under the Indiana Unclaimed Property laws to report and remit all properties as described in paragraph 16 and 17 above prior to dissolution.

19. Any violation of the terms of this Assurance constitutes *prima facie* evidence of a deceptive act in violation of the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.*

20. ImmediaDent shall not represent that the Office of the Attorney General approves or endorses ImmediaDent's past or future business practices, or that execution of this Assurance constitutes such approval or endorsement.

21. ImmediaDent shall cooperate with the Office of the Attorney General in attempting to resolve any future written complaints against ImmediaDent received by the Office of the Attorney General, including, but not limited to, complaints from consumers who were not identified by the forensic accounting firm referenced in paragraph 8 but who can document unrefunded payments made to ImmediaDent.

22. The Office of the Attorney General shall file this Assurance with the Marion County Superior or Circuit Court and petition the Court to approve this Assurance, as required by Ind. Code § 24-5-0.5-7(a).

23. The Court's approval of this Assurance shall not act as a bar to any private right of action.

24. This Assurance is entered into without any adjudication of any issue of fact or law, and upon consent of the parties. Upon ImmediaDent's compliance with the terms of this Assurance, the Attorney General shall deem all matters in controversy arising herein concluded for ImmediaDent and related entities.

V. TAX DISCLOSURES

25. For the purposes of 26 U.S.C. § 162(f) and its associated regulations, the settlement payment made by ImmediaDent shall be considered by the State of Indiana as restitution, remediation, or cost of compliance with the law. Specifically, the State of Indiana identifies two million fifty-one thousand and nine dollars and fifty cents (\$2,051,009.50) as restitution (including remediation of property) for damage or harm which was or may be caused by the violation or potential violation of Ind. Code § 24-5-0.5-1 *et seq.* This restitution amount is paid by ImmediaDent to restore impacted consumers damaged by the violation or potential violation of these laws to the same or substantially similar position or condition as existed prior to such damage.

26. The State of Indiana agrees that, in accordance with 26 U.S.C. § 6050X and its associated regulations, the State of Indiana shall furnish a written statement or a copy of Form 1098-F to ImmediaDent on or before January 31, 2023, and the State of Indiana shall file an information return with the Internal Revenue Service utilizing Form 1098-F or any successor form. For the purpose of this filing, ImmediaDent designates the following entity as the payer:

ImmediaDent of Indiana, P.C.
10601 Mission Road, Ste 240
Leawood, KS 66206
20-4935347

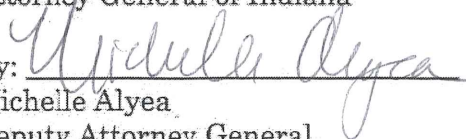
27. The State of Indiana agrees to cooperate with any questions or requests for a copy of this settlement agreement or other documents made by the Internal Revenue Service, and the State of Indiana agrees to notify ImmediaDent as soon as practicable of any such requests made by the Internal Revenue Service.

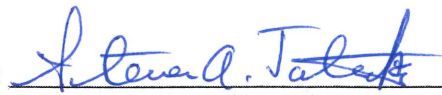
28. ImmediaDent agrees to provide to the State of Indiana any information necessary to complete the required written statement or Form 1098-F to the Internal Revenue Service.

29. The State of Indiana takes no position on whether the Internal Revenue Service will allow any deduction by ImmediaDent of any amounts paid under this settlement agreement. ImmediaDent agrees that ImmediaDent is fully responsible for the payment of all applicable taxes, including in the event any deductions for amounts paid under this settlement agreement are disallowed, as well as any fines or penalties imposed by the Internal Revenue Service. ImmediaDent agrees that ImmediaDent shall comply fully with this settlement agreement and not seek any modification regardless of the treatment by the Internal Revenue Service of amounts paid.

DATED this 26th day of July, 2022.

STATE OF INDIANA
THEODORE E. ROKITA
Attorney General of Indiana

By: 
Michelle Alyea
Deputy Attorney General
Attorney No.: 30507-64

By: 
Steven A. Taterka
Deputy Director
Consumer Protection Division
Attorney No.: 14160-49

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Indiana Government Center South
302 W. Washington St., 5th Floor
Indianapolis, IN 46204

IMMEDIADENT OF INDIANA, P.C.
10601 Mission Road, Ste 240
Leawood, KS 66206

By: 
Tatyana Furman (Jul 26, 2022 14:06 EDT)

Printed: Dr. Tatyana Furman

Title: Co-President

Exhibit 1

APPROVED this _____.

Judge, Marion County Circuit/Superior Court