

**Minutes of Meeting
BOARD FOR HEARING AID SPECIALISTS
INFORMAL FACT-FINDING CONFERENCES
JANUARY 19, 2005 (10:00 A.M.)**

The Board for Hearing Aid Specialists convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Teresa Robinson, Board Member, Presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD.

Disc=Disciplinary Case
Lic=Licensing Application

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
PB=Principal Broker
SA=Sales Agent
Invest=Investigator
W=Witness

Participants

1. Janson Jay Harrill
File Number 2004-01337 (Disc)
Janson Harrill – R
Patrick R. Pettitt, R's Atty
Renee Popielarz – Invest.
2. Janson Jay Harrill
File Number 2004-01464 (Disc)
NO DECISION MADE
Janson Harrill – R
Patrick R. Pettitt, R's Atty
James Searce – C
Shirley Searce – C's Wife
Renee Popielarz – Invest.
3. Janson Jay Harrill
File Number 2004-01500 (Disc)
Janson Harrill – R
Patrick R. Pettitt, R's Atty
Renee Popielarz – Invest.
4. Janson Jay Harrill
File Number 2004-02444 (Disc)
NO DECISION MADE
Janson Harrill – R
Patrick R. Pettitt, R's Atty
Olivia Bowling– C
Joan Laughinghouse C's Daughter
Renee Poplielarz – Invest.

The meeting adjourned at 12:45 p.m.

Board for Hearing Aid Specialists

Kathy J. Harvey, Chair

Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

DRAFT

**IN THE
COMMONWEALTH OF VIRGINIA**

Hearing Aid Specialist

Re: Janson Jay Harrill

File Number: 2004-01337
License Number: 2101001387

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 22, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Janson Jay Harrill to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On November 3, 2004, Patrick R. Pettit sent a letter addressed to Ilona LaPaglia stating he had been retained by Janson Jay Harrill. In his letter, dated November 2, 2004, Mr. Pettit requested that the Informal Fact-Finding Conference scheduled for November 19, 2004, be continued in order that he may have adequate opportunity to confer with Mr. Harrill. Continuance was granted.

On November 10, 2004, a rescheduled letter was mailed, via certified mail, to Mr. Pettit. The certified mail was signed for and received.

On November 19, 2004, a letter addressed to Ilona LaPaglia was received from Mr. Pettit confirming that he and Mr. Harrill would attend the Informal Fact-Finding Conference on January 19, 2005, at 10:00 a.m.

On January 19, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Janson Jay Harrill, Respondent; Patrick Pettitt, Respondent's Attorney; Jennifer Kazzie, Staff Member; and Teresa Robinson, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective August 23, 1995)

During the IFF, Harrill stated the purchase agreement with Gravely was signed by him prior to being executed by Ron Howard. Dr. Harrill was the sponsor for Ron Howard's temporary license; therefore, Dr. Harrill was responsible for Ron Howard's actions. Gravely returned the hearing aid to Hearing Life Hearing Center in mid July 2003 and the hearing aid was sent to Nu-Ear for repair. In late July 2003, Hearing Life Hearing Center terminated operation of its business in Danville and the office was permanently closed.

Once Harrill was aware of the problem, Harrill provided a service in an attempt to correct the problems, but was not able to follow through because Harrill was only an employee of Hearing Life Hearing Center. Dr. Harrill did contact Nu-Ear to inquire about the status of Gravely's hearing aid, which was returned for repair. Nu-Ear indicated it would return the hearing aid to Hearing Life Hearing Center; however, the office was permanently closed by the time the repair would have been received and the hearing aid has not been located.

Dr. Harrill made a good attempt to locate the hearing aid and Dr. Harrill, as an employee of Hearing Life Hearing Center, did not have direct control of the repair and/or refund of the hearing aid. Therefore, I recommend Count 1 of this file be closed with a finding of no violation of § 5.11.

By: _____
Teresa Robinson
Presiding Board Member

Board for Hearing Aid Specialists

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Hearing Aid Specialists
DATE: July 14, 2004

FILE NUMBER: 2004-01337
RESPONDENT: Janson Jay Harrill
LICENSE NUMBER: 2101001387
EXPIRATION: December 31, 2004

SUBMITTED BY: Renee H. Popielarz
APPROVED BY: E. Wayne Mozingo

COMMENTS:

Board Member review was by Paul D. Moran.

Harrill indicated that Mr. Gravely's hearing aid may have been inside the Danville office when it closed.

Janson Jay Harrill ("Harrill") was at all times material to this matter a licensed hearing aid specialist in Virginia No. 2101001387.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation of the Code of Virginia and/or Board's regulations:

BACKGROUND:

On September 17, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Robert Gravely ("Gravely") regarding the purchase of hearing aids from Hearing Life Hearing Center in Danville, Virginia. (Exh. C-1; Exh. C-3)

On or about October 23, 2002, Gravely purchased Nu-Ear hearing aids from Jay Harrill at Hearing Life Hearing Center of Danville by check in the amount of \$1,190.00. (Exh. C-2) The Purchase Agreement was signed by Harrill. The hearing aids were received by Gravely on or about December 2, 2002. (Exh. C-3)

1. Board Regulation (Effective August 23, 1995)

§ 5.11. Grounds for discipline.

The board may fine any licensee or suspend or revoke any license issued under the provisions of Chapter 15 of Title 54.1 of the Code of Virginia and the regulations of the board, or both pursuant to the provisions of the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia when the licensee has been found in violation of:

1. Improper conduct, including but not limited to:
 - h. Failing to provide expedient, reliable and dependable services when requested by a client or client's guardian.

FACTS:

One of the hearing aids purchased by Gravely was repaired several times by the Hearing Life Hearing Center in Danville. Some time around the middle of July 2003, the hearing aid was delivered to the Hearing Life Hearing Center in Danville office for repair. Gravely was told by office staff that the hearing aid would be sent off for repair and would be available for pick up in seven to eight days. When Margaret Gravely, wife of Robert Gravely, returned a week later to pick up the hearing aid, the Danville office had permanently closed. As of July 14, 2004, the hearing aid has not been returned to Gravely. (Exh. I-3)

COMMONWEALTH OF VIRGINIA

Hearing Aid Specialist

Re: Janson Jay Harrill

File Number: 2004-01500
License Number: 2101001387

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 22, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Janson Jay Harrill to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On November 3, 2004, Patrick R. Pettit sent a letter addressed to Ilona LaPaglia stating he had been retained by Janson Jay Harrill. In his letter, dated November 2, 2004, Mr. Pettit requested that the Informal Fact-Finding Conference scheduled for November 19, 2004, be continued in order that he may have adequate opportunity to confer with Mr. Harrill. Continuance was granted.

On November 10, 2004, a rescheduled letter was mailed, via certified mail, to Mr. Pettit. The certified mail was signed for and received.

On November 19, 2004, a letter addressed to Ilona LaPaglia was received from Mr. Pettit confirming that he and Mr. Harrill would attend the Informal Fact-Finding Conference on January 19, 2005, at 10:00 a.m.

On January 19, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Janson Jay Harrill, Respondent; Patrick Pettitt, Respondent's Attorney; Jennifer Kazzie, Staff Member; and Teresa Robinson, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the Report of Findings:

Count 1: Board Regulation (Effective August 23, 1995)

The purchase agreement was signed by Steve Kuhns; however, Dr. Harrill was subsequently serviced the hearing aid purchased by Henry Parks. During a period of a year, Dr. Harrill attempted to repair or replace the hearing aid. In July 2003, Henry Parks returned the hearing aids for credit. In September 2003, Life Sounds Hearing Center (Hearing Life Hearing Center in Salem, Virginia) terminated operation of its office prior to Parks receiving a refund.

In October 2003, Dr. Harrill opened his office under the name of Commonwealth Hearing Centers LC. Dr. Harrill attempted to provide service to former Life Sounds Hearing Center customers. In 2004, Dr. Harrill subsequently reimbursed money owed by Hearing Life Hearing Center to Henry Parks.

Based on the record and testimony during the IFF, Dr. Harrill did not recognize or acknowledge the draining ear, as documented by a physician, was the problem with the hearing aid. Instead Dr. Harrill attempted to correct the problem by replacing the hearing aid with a hypo-allergenic case. However, Dr. Harrill did eventually refund Mr. Parks in full. Janson Jay Harrill's actions are a violation of § 5.11. Therefore, I recommend no monetary penalty be imposed.

By: _____
Teresa Robinson
Presiding Board Member

Board for Hearing Aid Specialists

Date: _____

MONETARY PENALTY TERMS

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AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Hearing Aid Specialists
DATE: July 14, 2004

FILE NUMBER: 2004-01500
RESPONDENT: Janson Jay Harrill
LICENSE NUMBER: 2101001387
EXPIRATION: December 31, 2004

SUBMITTED BY: Renee H. Popielarz
APPROVED BY: E. Wayne Mozingo

COMMENTS:

Board Member review was by Paul D. Moran.

On February 5, 2004, Harrill told Investigator Renee H. Popielarz by telephone that he has been making payments to Parks and had only a few more payments to make to complete the reimbursement. On July 14, 2004 Helen Parks told Investigation Renee H. Popielarz by telephone that Harrill has reimbursed them in full for the hearing aids. Mrs. Parks could not recall the date of the final payment but believed it to be around May 2004.

The Purchase Agreement was signed by Steven Kuhns whose license (2101 001217) expired December 31, 2002.

Janson Jay Harrill ("Harrill") was at all times material to this matter a licensed hearing aid specialist in Virginia No. 2101001387.

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation of the Code of Virginia and/or Board's regulations:

BACKGROUND:

On October 3, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Henry

Parks ("Parks") regarding the purchase of hearing aids from Life Sounds Hearing Center in Salem, Virginia. (Exh. C-1)

On or about June 24, 2002, Parks purchased two Audina hearing aids from Steve Kuhns at the Life Sounds Hearing Center in Salem, Virginia. Parks paid by check in the amount of \$1,990.00 for the hearing aids. (Exh. C-2)

1. Board Regulation (Effective August 23, 1995)

§ 5.11. Grounds for discipline.

The board may fine any licensee or suspend or revoke any license issued under the provisions of Chapter 15 of Title 54.1 of the Code of Virginia and the regulations of the board, or both pursuant to the provisions of the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia when the licensee has been found in violation of:

1. Improper conduct, including but not limited to:
 - h. Failing to provide expedient, reliable and dependable services when requested by a client or client's guardian.

FACTS:

The hearing aids purchased by Parks had to be returned for repair several times between July 2002 and July 2003. One hearing aid was returned on or about July 7, 2003. The hearing aid was to be ready in a week. The hearing aid which was sent to Hearing Life Hearing Centers in Ocala, Florida for repair was never returned to Parks. A Hearing Aid Repair Form dated July 21, 2003 indicates Parks is due a refund in the amount of \$1,990.00. Harrill told Parks wife Helen Parks that a refund would be provided due to the problems experienced from the hearing aids. (Exh. C-1; Exh. C-2; Exh. C-3) Harrill indicates the corporate office Hearing Life Hearing Centers in Ocala, Florida stalled on the refund until closing all of the offices down. (Exh. R-1)