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FILED
STATE OF CALIFORNIA
Speech-Language Pathology and Audiology Board
Sacramento, California
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By Candace Raven

8
9 **BEFORE THE**
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 11 2006 29

13 **ADAM JOHN SORTINI**

ACCUSATION

14 1970 E. South Bear Creek
Merced, CA 95340

15 Speech-Language Pathologist License No. SP 454
16 Audiologist License No. AU 170

17
18 Respondent.

19 Complainant alleges:

20 1. Annemarie Del Mugnaio (Complainant) brings this Accusation solely in
21 her official capacity as the Executive Officer for the Speech-Language Pathology and Audiology
22 Board.

23 **I.**

24 **LICENSE HISTORY**

25 2. On or about July 1, 1974, the Speech-Language Pathology and Audiology
26 Board issued speech language pathologist license number SP 454 to Adam John Sortini.
27 License number SP 454 will expire on October 31, 2009, unless renewed.

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1 (g) Other acts that have endangered or are likely to
2 endanger the health, welfare, and safety of the public.

3 6. Section 2553.1 of the Business and Professions Code provides as follows:

4 **§ 2553.1. Conviction; discipline or denial of license**

5 A plea or verdict of guilty, or a conviction following a plea of nolo
6 contendere made to a charge substantially related to the
7 qualifications, functions, or duties of a speech-language pathologist
8 or audiologist is deemed to be a conviction within the meaning of
9 this article. The board may order the licensee be disciplined or
10 denied a license as provided in Section 2533 when the time for
11 appeal has elapsed, or the judgment of conviction has been
12 affirmed on appeal, or when an order granting probation is made
13 suspending the imposition of sentence irrespective of a subsequent
14 order under Section 1203.4 of the Penal Code allowing the person
15 to withdraw his or her plea of guilty and to enter a plea of not
16 guilty, or setting aside the verdict of guilty, or dismissing the
17 accusation, information or indictment.

12 7. Section 125.3 of the Business and Professions Code provides that the
13 board may request reasonable costs of the investigation and enforcement of the case.

14 **III.**

15 **GENERAL BACKGROUND**

16 8. At all relevant times herein, Respondent owned Valley Hearing, Speech &
17 Language Center, located at 1747 M. Street, Merced, California. Respondent participated in the
18 Medicare program, which pays claims for covered services submitted on behalf of Medicare
19 beneficiaries.

20 9. National Heritage Insurance Company (NHIC), serves as a carrier for the
21 Medicare program in California (i.e., NHIC receives, adjudicates, and pays claims submitted to it
22 by health care providers).

23 10. Circa 1994, based upon a complaint regarding services not rendered,
24 NHIC investigated Respondent's speech-language pathology and audiology business and
25 performed an audit. NHIC found Respondent's billing practices were inappropriate and could
26 violate criminal law. Respondent requested a hearing of NHIC's findings. The hearing officer

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1 upheld NHIC's findings. Due to the audit, Respondent remitted \$36,160.75 to Medicare, and
2 was educated in the Medicare guidelines.¹

3 11. Medicare does not cover routine screening or hearing testing. Thus, to
4 receive reimbursement from Medicare for diagnostic testing by a qualified audiologist, such
5 services are only covered under "other diagnostic tests" when first ordered by a physician for the
6 purpose of obtaining additional information necessary for the physician's evaluation. Not only
7 must the physician order the audiology services, but the documentation must indicate the
8 audiology testing was in order for the physician to obtain additional necessary information.

9 12. From January 1998 through January 8, 2003, Respondent made fraudulent
10 claims to Medicare. Respondent regularly visited residential care homes and skilled nursing
11 facilities throughout California, conducting hearing tests without the prior referral of a physician.
12 Thereafter, Respondent submitted claims to Medicare for reimbursement of his testing. In
13 violation of the rules surrounding Medicare reimbursement, Respondent either acquired a
14 physician's referral *after* he performed the tests, forged the physician's signature, or back dated
15 the documents submitted to Medicare to reflect a referral prior to his testing. The
16 misrepresentations to Medicare also included claiming that he saw patients at his Valley Hearing,
17 Speech & Language Center.

18 13. As a result of Respondent's false Medicare claims, Medicare paid over
19 \$538,899, to Respondent for services not covered by Medicare. Said Medicare payments paid to
20 Respondent based upon his false claims include the following:

| 21 | DATE: | MEDICARE PAYMENT CHECKS TO RESPONDENT |
|----|----------------|--|
| 22 | March 20, 2001 | Medicare payment check (#173616772) associated with patient M.C. ² |
| 23 | | and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |

24
25
26 1. The Fraud Investigations Unit previously educated Respondent on April 28, 1992, July
1, 1993, and February 23, 1994.

27 2. The patient names are abbreviated herein to protect patient confidentiality. The patient's
28 full name will be provided upon receipt of a properly executed and served Request For
Discovery.

| | | |
|----|--------------------|---|
| 1 | April 3, 2001 | Medicare payment check (#173668760) associated with patient K.H. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 2 | | |
| 3 | April 4, 2001 | Medicare payment check (#173673233) associated with patient M.D. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 4 | | |
| 5 | April 18, 2001 | Medicare payment check (#173719851) associated with patient B.F. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 6 | | |
| 7 | April 30, 2001 | Medicare payment check (#173760384) associated with patient Grace Grant and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 8 | | |
| 9 | May 21, 2001 | Medicare payment check (#173829193) associated with patient B.J. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 10 | | |
| 11 | June 4, 2001 | Medicare payment check (#173871992) associated with patient J.C. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 12 | | |
| 13 | June 13, 2001 | Medicare payment check (#173904989) associated with patient .C. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 14 | | |
| 15 | June 18, 2001 | Medicare payment check (#173917954) associated with patient L.H. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 16 | | |
| 17 | June 19, 2001 | Medicare payment check (#173923901) associated with patient K.H. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 18 | | |
| 19 | June 27, 2001 | Medicare payment check (#173949865) associated with patient E.E. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 20 | | |
| 21 | August 6, 2001 | Medicare payment check (#174078638) associated with patient M.D. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 22 | | |
| 23 | August 8, 2001 | Medicare payment check (#174089945) associated with patient G.G. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 24 | | |
| 25 | August 20, 2001 | Medicare payment check (#174129835) associated with patient B.F. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 26 | | |
| 27 | September 21, 2001 | Medicare payment check (#174242124) associated with patient U.E. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA |
| 28 | | |

1 October 15, 2001 Medicare payment check (#174321103) associated with patient H.H. and
2 others claims made payable to Valley Hearing Speech, 1747 M. Street,
Merced, CA

3 October 23, 2001 Medicare payment check (#174350732) associated with patient M.C. and
4 others claims made payable to Valley Hearing Speech, 1747 M. Street,
Merced, CA

5 14. Due to Respondent's conduct, on March 16, 2006, an indictment was filed
6 against Respondent in the United States District Court for the Eastern District of California, in
7 the case entitled, *United States of America v. Adam John Sortini*, Case No. 06 CR 00100AW,
8 alleging seventeen criminal counts, under 18 U.S.C. § 1341 [mail fraud] and 18 U.S.C. § 1341
9 § 2 [aiding and abetting].

10 15. The federal case against Respondent, *United States of America v. Adam*
11 *John Sortini*, Case No. 06 CR 00100AW, was tried by a jury. On November 4, 2008, the jury
12 entered a guilty verdict as to all seventeen counts. A judgement has yet to be entered as
13 Respondent has filed a motion for a new trial.

14 IV.

15 STATUTORY VIOLATIONS

16 FIRST CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct/Dishonest Fraudulent Acts)
[Bus. & Prof. Code § 2553]

18 16. Paragraphs 8 through 14 are incorporated herein by reference. Respondent
19 has subjected his license to discipline under Business and Professions Code section 2553(e) for
20 committing dishonest and fraudulent acts as alleged in paragraphs 8 through 13 above.
21 Respondent submitted the false Medicare claims seeking reimbursement for his work as a
22 licensed speech language pathologist and/or audiologist. Thus, Respondent's fraudulent acts are
23 substantially related to his qualifications, functions, or duties of licensed speech language
24 pathologist and/or audiologist.

25 SECOND CAUSE FOR DISCIPLINE

26 (Committing Acts Endangering The Health, Welfare, And Safety Of The Public)
[Bus. & Prof. Code § 2553(g)]

27 17. Paragraphs 8 through 14 are incorporated herein by reference. Respondent
28 is subject to discipline for committing acts "that have endangered or are likely to endanger the

1 health, welfare, and safety of the public" under Business and Professions Code section 2553(g).
2 A "violation of any Medi-Cal statute, rule, or regulation, relating to its health care services shall
3 be deemed contrary to public health, safety, welfare and morals" and can subject a licensee to
4 discipline. (*Fort v. Board of Medical Quality Assurance* (1982) 136 Cal.App.3d 12, 16-17.) A
5 health care practitioner can have their licensed disciplined for Medi-Cal or other insurance fraud.
6 (*Brown v. State Department of Health* (1978) 86 Cal.App.3d 548.)

7 18. Respondent submitted the false Medicare claims seeking reimbursement
8 for his work as a licensed speech language pathologist and/or audiologist. Thus, the acts
9 endangering the health, welfare and safety of the public are substantially related to his profession.

10 **V.**

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Speech-Language Pathology and Audiology Board
14 issue a decision:

15 1. Revoking or suspending speech language pathologist license number SP
16 454 issued to Adam John Sortini.

17 2. Revoking or suspending audiologist license number AU 170 issued to
18 Adam John Sortini.

19 3. Ordering Adam John Sortini to pay the Board the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3.

22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: 8/5/09

24 

25 Annemarie Del Mugnaio
26 Executive Officer
27 Speech-Language Pathology and Audiology Board
28 State of California
Complainant