

**BEFORE THE
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND
HEARING AID DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for
Reconsideration:

Case No. 1I 2006 29

ADAM JOHN SORTINI,

**Speech-Language Pathologist, No. SP 454
Audiologist, No. AU 170
Hearing Aid Dispenser, No. HA 1137
Licensee/Respondent**

DECISION AFTER RECONSIDERATION

On July 9, 2013, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board ("Board") issued a Decision in the above-entitled matter to be effective August 8, 2013.

Thereafter, Respondent submitted a Petition for Reconsideration on or about July 31, 2013. On August 7, 2013 the Board issued an order staying the Decision, making the new effective date August 18, 2013 for the purpose of allowing the Board to consider whether to grant Respondent's Petition for Reconsideration. The Board granted Respondent's Petition for Reconsideration on August 15, 2013 and further stayed the Decision.

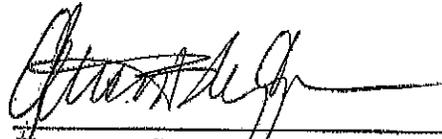
On September 13, 2013, the Board issued an Order Fixing Time for Submission of Written Argument, fixing the time for the submission of written argument on or before September 27, 2013.

Having reviewed all pertinent parts of the administrative record, including the transcript of the hearing held May 17, 2013 and written argument submitted by both parties pursuant to the Order Fixing Time, the Board now makes and enters its Decision After Reconsideration as follows:

The Decision of the Board dated July 9, 2013 is hereby adopted as if fully set forth.

This Decision After Reconsideration shall become effective on November 22, 2013.

It is so ORDERED this 23 day of October, 2013.



FOR THE SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY AND HEARING AID DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
ALISON GRIMES, CHAIR

BEFORE THE
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY,
AND HEARING AID DISPENSERS BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Amended Accusation
Against :

ADAM JOHN SORTINI

Speech-Language Pathologist License No. 454
Audiologist License No. AU 170
Hearing Aid Dispenser License No. HA-1137,

Respondent.

Case No. 11 2006 29

OAH No. 2011100414

PROPOSED DECISION

Karl S. Engeman, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter in Sacramento, California, on May 17, 2013.

Jannsen Tan, Deputy Attorney General, represented complainant.

Anthony P. Capozzi, Attorney at Law, represented respondent.

Evidence was received, the hearing was closed, and the matter was submitted on May 17, 2013.

FACTUAL FINDINGS

1. Complainant Annemarie Del Mugnaio, Executive Officer of the Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board (Board), filed the Accusation in her official capacity.

2. On July 1, 1974, the Board issued speech language pathology license number SP 454 to respondent Adam John Sortini (respondent). On July 1, 1974, the Board issued audiologist license number AU 170 to respondent. On January 23, 1979, the Board issued hearing aid dispenser license number HA-1137 (now dispensing audiologist license) to respondent. All of the licenses were in effect during the events recited below.

3. On December 18, 2009, respondent was convicted in the United States District Court, Eastern District of California, of violating sections 18 U.S.C. 1341 and 2 (17 counts), Mail Fraud and Aiding and Abetting, a felony, and 18 U.S.C. 1347 and 2 (1 count), Health Care Fraud and Aiding and Abetting, a felony. Respondent was sentenced to six months in prison, followed by 36 months supervised release (probation), the terms of which included home detention for 15 months, and payment of \$100,000 in restitution plus an assessment of \$1,800. Respondent appealed the conviction and the conviction was affirmed. Respondent remains on probation, but the only requirement is that he submits a monthly written report confirming his compliance with the terms.

4. Respondent's conviction followed a trial during which a jury found him guilty of each count of the 18-count indictment. The allegations involved fraudulent claims submitted to Medicare for respondent's professional services. The events occurred in 2001. At hearing in this matter, respondent explained that Medicare required a physician's order for testing and hearing aid services provided to residents in skilled nursing facilities, and his former office manager forged documents and otherwise falsified forms for reimbursement for such services when no physician approval had been obtained. She was convicted of embezzlement from respondent.

5. In aggravation, respondent was audited in 1994 by the insurance company responsible for Medicare reimbursements and found to have submitted false claims. Respondent blamed the errors on a former office manager whom he dismissed. He was required to reimburse Medicare \$38,000 based on the audit findings. He retained a new office manager and instructed her in the proper manner to obtain prior approval for hearing aid services to be provided residents in skilled nursing facilities. The office manager died and was replaced by the woman whose fraudulent activities led to respondent's conviction. At hearing, respondent explained that he had admonished the office manager to make sure a physician's approval had been obtained before he provided services to any skilled nursing home resident. He trusted her to do so, but she lied to respondent.

6. Respondent is 91 years old. He is the oldest full-time practicing audiologist in the country. Respondent received a bachelor's degree in speech pathology from Boston University and a master's degree in the same subject from the University of Illinois. He received a doctorate of education in 1955 based on course work at Harvard and Boston University. Respondent has been an audiologist since 1951. Respondent is fluent in five languages including Spanish and he is an accomplished jazz pianist.

7. Respondent served four months of his prison sentence at San Pedro Terminal Island prison, and then two months in a half-way house in Fresno, California. While serving the home detention portion of his sentence, respondent's probation officer allowed him to come and go at will to care for respondent's very ill wife who subsequently died. Respondent paid \$38,000 towards the court-ordered restitution from his Individual Retirement Account and pays the federal government \$320 each month from his social security benefits. After rent and other expenses, respondent has just enough to live on. He still works as an audiologist, charging what he characterizes as a "modest" fee to private

patients and no fee to those on Medi-Cal or Medicare. Respondent performs pro bono services at migrant labor camps and health fairs. In the week before the administrative hearing, respondent provided audiology services to 15 people at no charge. No one else in his area provides free audiology services to Medi-Cal and Medicare eligible persons. Recently, he tested a woman who had virtually no hearing capability and persuaded a company to provide her with approximately \$4,000 worth of hearing aids to restore her hearing. The May 16, 2013, Merced County Times newspaper reported the story.

8. Three character witnesses testified for respondent. Dr. Timothy Johnston is a family practice specialist who also holds a pharmacy doctorate. He has practiced in the Merced area since 1981, and met respondent during his residency when he "rotated" through respondent's office. Since then, he has practiced next door to respondent's office. He and respondent have shared referrals and information. Dr. Johnston confirmed his comments made in a letter written earlier in the year and received in evidence that respondent had served the community well as the only independent audiologist serving Medi-Cal, Medicare and veterans in the Veteran's health care system. Dr. Salvador Sandoval is also a family practice specialist who did part of his residency in Merced where he met respondent. He still refers patients to respondent. He pointed out that respondent's fluency in Spanish helped respondent treat patients in migrant labor camps where Dr. Sandoval also provides medical services. In a letter written earlier, Dr. Sandoval pointed out that respondent goes out of his way to fit hearing aids to patients who cannot pay. Respondent is the only audiologist providing services in the Merced areas to veterans, who would otherwise have to travel to a V.A. facility in Fresno. Philip Korbas is an electrical engineer who has helped respondent design and build audiology testing equipment. He met respondent in the 1960s. He confirmed respondent's interest in providing the best services available at a reasonable cost to his patients. A letter written by Dr. Walter Hunt, an otolaryngologist, was also received in evidence. Dr. Hunt has worked closely with respondent for 23 years and described him as a well-qualified, caring and ethical audiologist. He refers his difficult audiologic procedures to respondent. Gene Hamill is affiliated with Arcadia bookkeeping services. His company has been working with respondent since 2007. They were asked to reconstruct respondent's books and concluded that the books were "accurate" but respondent's office manager had committed theft and fraud. They found no indication of impropriety on his part.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2533, subdivisions (a) and (e), read:

The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language

pathologist or audiologist or hearing aid dispenser, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(e) Committing a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee.

2. California Code of Regulations, title 16, section 1399.156.1, reads:

For the purposes of denial, suspension or revocation of a license or registration pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license under the Act if to a substantial degree it evidences present or potential unfitness of a person holding a license to perform the function authorized by his or her license or registration in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Act.

(b) Conviction of a crime involving fiscal dishonesty.

3. California Code of Regulations, title 16, section 1399.134, reads:

When considering the suspension or revocation of a license or a temporary license on the grounds that the licensee has been convicted of a crime, the bureau, in evaluating the rehabilitation of such person and his present eligibility for a license or temporary license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) Extent of time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any or all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

4. Respondent's licenses are subject to discipline pursuant to section 2533, subdivisions (a) and (e), by reason of Factual Findings 3 and 4. Respondent's convictions evidence present unfitness to provide speech pathology, audiology and hearing aid services in a manner consistent with the public welfare, and each of the 18 counts involved fiscal dishonesty. Thus, the convictions are substantially related to respondent's qualifications, functions and duties.

5. Evidence of rehabilitation has been considered in the proposed discipline in this matter. The nature and severity of the crimes is self-evident. Respondent committed 18 felonious acts, defrauding the Medicare system of approximately \$100,000. Respondent has no other criminal history. It has been approximately 12 years since the offenses were committed. Respondent remains on supervised release and he has paid more than one-third of the total amount ordered by the court and continues to pay on a monthly basis. Expungement is not applicable, because it is not available for a federal conviction. Respondent appears to have finally come to grips with the need to *personally* ensure compliance with Medicare rules relating to the treatment of skilled nursing residents, but such evidence of "rehabilitation" is diminished by the earlier audit findings of essentially identical violations when respondent also entrusted the billing responsibilities to a staff member. Respondent has had a long and distinguished career as an audiologist, and his acts of generosity and charity are commendable.

6. It is unfortunate that respondent was victimized by his office manager, but the fact remains that a jury found respondent individually culpable for fraudulent billing and mail fraud. The conviction was appealed and affirmed. Thus, respondent and the Board must accept that respondent was guilty of bilking the Medicare system of approximately \$100,000. The only reasonable disposition of this matter is revocation of respondent's licenses, irrespective of his many years of service to his community including those who could not afford audiology services from any other provider.

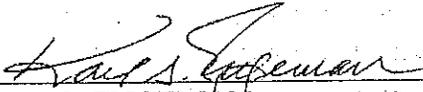
ORDER

1. Respondent Adam John Sortini's speech language pathologist license number SP 454 is revoked.

2. Respondent Adam John Sortini's audiologist license number AU 170 is revoked.

3. Respondent Adam John Sortini's hearing aid dispenser/dispensing audiologist license number HA-1137 is revoked.

Dated: June 14, 2013


KARL S. ENGEMAN
Administrative Law Judge
Office of Administrative Hearings

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FILED - STATE OF CALIFORNIA
Speech-Language Pathology & Audiology
& Hearing Aid Dispensers Board
Sacramento, California on July 19, 2010

By Cynthia Alameda

8 *Attorneys for Complainant*

9
10 **BEFORE THE**
SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY,
AND HEARING AID DISPENSERS BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Amended Accusation Against:

Case No. 11 2006 29

14 **ADAM JOHN SORTINI**

AMENDED ACCUSATION

15 1970 E. South Bear Creek
16 Merced, CA 95340

17 Speech-Language Pathologist License No. SP 454
Audiologist License No. AU 170
18 Hearing Aid Dispenser License No. HA-1137

19 Respondent.

20
21 Complainant alleges:

22 1. Annemarie Del Mugnaio (Complainant) brings this Amended Accusation solely in
23 her official capacity as the Executive Officer for the Speech-Language Pathology, Audiology, and
24 Hearing Aid Dispensers Board.

25 I.

26 **LICENSE HISTORY**

27 2. On or about July 1, 1974, the Speech-Language Pathology and Audiology Board
28 issued speech language pathologist license number SP 454 to Adam John Sortini. License

1 number SP .454 will expire on October 31, 2011, unless renewed. On July 1, 1974, the Speech-
2 Language Pathology and Audiology Board issued audiologist license number AU 170 Adam John
3 Sortini. License number AU 170 will expire on October 31, 2011, unless renewed.

4 On January 23, 1979, Adam John Sortini was issued hearing aid dispenser license number
5 HA-1137, which will expire on October 31, 2010, unless renewed. Said license, if renewed, will
6 be converted to a dispensing audiologist license.

7 3. This Amended Accusation is brought before the Speech-Language Pathology,
8 Audiology, and Hearing Aid Dispensers Board under the authority of the following laws. All
9 section references are to the Business and Professions Code unless otherwise indicated.

10 **II.**

11 **RELEVANT STATUTES**

12 4. Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Board is
13 governed under the Business and Professions Code section 2530 et. seq. Section 2531.01 of the
14 Business and Professions Code provides as follows:

15 **§ 2531.02 Priority to protect the public**

16 Protection of the public shall be the highest priority for the Speech-
17 Language Pathology and Audiology Board in exercising its licensing,
18 regulatory, and disciplinary functions. Whenever the protection of the
19 public is inconsistent with other interests sought to be promoted, the
20 protection of the public shall be paramount.

21 5. Section 2533 of the Business and Professions Code provides, in pertinent part, the
22 following:

23 **§ 2533. Unprofessional conduct**

24 The board may . . . suspend, revoke, or impose terms and conditions upon
25 the licensee if he or she has been guilty of unprofessional conduct.
26 Unprofessional conduct shall include, but shall not be limited to, the
27 following:

28 (a) Conviction of a crime-substantially related to the
qualifications, functions, and duties of a speech-language
pathologist or audiologist, as the case may be. The record of
the conviction shall be conclusive evidence thereof.

1 (e) Committing a dishonest or fraudulent act that is
substantially related to the qualifications, functions, or duties
2 of a licensee.

3
4 (g) Other acts that have endangered or are likely to endanger
the health, welfare, and safety of the public.

5
6 6. Section 2533.1 of the Business and Professions Code provides as follows:

7 **§ 2533.1. Conviction; discipline or denial of license**

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

15 7. Business and Professions Code section 3320.1, states as follows:

16 **§ 3320.1. Priority to protect the public**

17 Protection of the public shall be the highest priority for the Hearing Aid
18 Dispensers Bureau in exercising its licensing, regulatory, and disciplinary
functions. Whenever the protection of the public is inconsistent with
19 other interests sought to be promoted, the protection of the public shall be
paramount.

20
21 8. Business and Professions Code section 3401, states as follows:

22 **§ 3401. Grounds**

23 The board may deny, issue subject to terms and conditions, suspend, or
24 revoke a license, or impose conditions of probation upon a license, for
any of the following causes:

25 ...
26 (d) Conviction of any crime substantially related to the qualifications,
27 functions, or duties of a hearing aid dispenser,
28 ...

1 (g) Fraud or misrepresentation in the fitting or selling of a hearing aid.

2

3 (l) Violation of any provision of this chapter or of any regulation
4 adopted pursuant to this chapter.

5 (m) Any cause that would be grounds for denial of an application for a
6 license.

7 9. Business and Professions Code section 3403, states as follows:

8 **§ 3403. Conviction of crime**

9 A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere, made to a charge substantially related to the qualifications,
11 functions, and duties of a hearing aid dispenser is deemed to be a
12 conviction within the meaning of this article. The board may order the
13 license suspended or revoked, impose probation conditions on a licensee,
14 or may decline to issue a license, when the time for appeal has elapsed, or
15 the judgment of conviction has been affirmed on appeal, or when an order
16 granting probation is made suspending the imposition of sentence,
17 irrespective of a subsequent order under Section 1203.4 of the Penal Code
18 allowing the person to withdraw his or her plea of guilty and to enter a
19 plea of not guilty, or setting aside the verdict of guilty, or dismissing the
20 accusation, information, or indictment.

21 10. Section 125.3 of the Business and Professions Code provides that the board may
22 request reasonable costs of the investigation and enforcement of the case.

23 **III.**

24 **GENERAL BACKGROUND**

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

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

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

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

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

9 15. From January 1998 through January 8, 2003, Respondent made fraudulent claims to
10 Medicare. Respondent regularly visited residential care homes and skilled nursing facilities
11 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 16. As a result of Respondent's false Medicare claims, Medicare paid over \$538,899, to
19 Respondent for services not covered by Medicare. Said Medicare payments paid to Respondent
20 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 23 M.C. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA
24 April 3, 2001	Medicare payment check (#173668760) associated with patient 25 K.H. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA
26 April 4, 2001	Medicare payment check (#173673233) associated with patient 27 M.D. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA

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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
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
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
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
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
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
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
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
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
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
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
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
October 15, 2001	Medicare payment check (#174321103) associated with patient H.H. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA
October 23, 2001	Medicare payment check (#174350732) associated with patient M.C. and others claims made payable to Valley Hearing Speech, 1747 M. Street, Merced, CA

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

6 18. The federal case against Respondent, *United States of America v. Adam John Sortini*,
7 Case No. 06 CR 00100AW, was tried by a jury. On November 4, 2008, the jury entered a guilty
8 verdict as to all seventeen counts. Judgment was entered against Respondent in December 2009.

9 **IV.**

10 **STATUTORY VIOLATIONS**

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct/Dishonest Fraudulent Acts)

[Bus. & Prof. Code § 2533]

13 19. Paragraphs 11 through 18 are incorporated herein by reference. Respondent has
14 subjected his licenses to discipline under Business and Professions Code section 2533(e) for
15 committing dishonest and fraudulent acts as alleged in paragraphs 8 through 13 above.

16 Respondent submitted the false Medicare claims seeking reimbursement for his work as a
17 licensed speech language pathologist and/or audiologist. Thus, Respondent's fraudulent acts are
18 substantially related to his qualifications, functions, or duties of licensed speech language
19 pathologist, audiologist, and hearing aid dispenser.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Committing Acts Endangering the Health, Welfare, and Safety of the Public)

[Bus. & Prof. Code § 2533(g)]

22 20. Paragraphs 1 through 17 are incorporated herein by reference. Respondent's licenses
23 are subject to discipline for committing acts "that have endangered or are likely to endanger the
24 health, welfare, and safety of the public" under Business and Professions Code section 2533(g).
25 A "violation of any Medi-Cal statute, rule, or regulation, relating to its health care services shall
26 be deemed contrary to public health, safety, welfare and morals" and can subject a licensee to
27 discipline. (*Fort v. Board of Medical Quality Assurance* (1982) 136 Cal.App.3d 12, 16-17.)

28 ///

1 A health care practitioner can have their licensed disciplined for Medi-Cal or other insurance
2 fraud. (*Brown v. State Department of Health* (1978) 86 Cal.App.3d 548.)

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

6 **THIRD CAUSE FOR DISCIPLINE**

7 (Conviction of Crime)

[Bus. & Prof. Code § 3401(d)]

8 22. Paragraphs 11 through 18 are incorporated herein by reference. Respondent has
9 subjected his licenses to discipline under Business and Professions Code section 3401(d) for
10 conviction of crimes. The convictions against Respondent in the case entitled, *United States of*
11 *America v. Adam John Sortini*, Case No. 06 CR 00100AW, were from Respondent's illegal
12 conduct submitting false Medicare claims for his Valley Hearing Speech & Language Center, and
13 thus substantially related to the qualifications, functions, and duties of a speech-language
14 pathologist or audiologist.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Fraud/Misrepresentation)

[Bus. & Prof. Code § 3401(g)]

17 23. Paragraphs 11 through 18 are incorporated herein by reference. Respondent has
18 subjected his licenses to discipline under Business and Professions Code section 3401(g) for
19 committing fraud and misrepresentation as alleged in paragraphs 11 through 18 above.

20 Respondent submitted the false Medicare claims seeking reimbursement for his work as a
21 licensed speech language pathologist and/or audiologist. Thus, Respondent's fraudulent acts are
22 substantially related to his qualifications, functions, or duties of licensed speech language
23 pathologist, audiologist, and hearing aid dispenser.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 (Violation of Chapter)

[Bus. & Prof. Code § 3401(l)(m)]

26 24. Paragraphs 11 through 18 are incorporated herein by reference. Respondent has
27 subjected his licenses to discipline under Business and Professions Code section 3401 (m). The
28 submission of false Medicare claims would be grounds for denial of application for a license.

1 Additionally, Respondent has subjected his licenses to discipline under Business and Professions
2 Code section 3401 (l) for violating Business and Professions Code sections 3401(d), (g), and (m).

3 V.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Speech-Language Pathology, Audiology, and Hearing Aid
7 Dispensers Board issue a decision:

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

10 2. Revoking or suspending audiologist license number AU 170 issued to Adam John
11 Sortini.

12 3. Revoking or suspending hearing aid dispenser license number HA-1137 issued to
13 Adam John Sortini.

14 4. Ordering Adam John Sortini to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3.

17 5. Taking such other and further action as deemed necessary and proper.

18
19 DATED: July 19, 2010


ANNEMARIE DEL MUGNAIO
Executive Officer
Speech-Language Pathology, Audiology, and
Hearing Aid Dispensers Board
Department of Consumer Affairs
State of California
Complainant

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