

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

In the Matter of the Accusation Against:

**KEITH ERIC RIOS  
8041 Greenback Lane  
Citrus Heights, CA 95610**

**Hearing Aid Dispenser License No. HA  
5058,**

Respondent.

Case No. 1C-2010-155

OAH No. 2014020735

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 24, 2015.

It is so ORDERED June 24, 2015.

  
\_\_\_\_\_  
FOR THE SPEECH-LANGUAGE PATHOLOGY  
AND AUDIOLOGY AND HEARING AID  
DISPENSERS BOARD  
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
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8  
9 **BEFORE THE**  
**SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND HEARING AID**  
**DISPENSERS BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
11

12 In the Matter of the Accusation Against:

Case No. 1C-2010-155

13 **KEITH ERIC RIOS**  
8041 Greenback Lane  
14 Citrus Heights, CA 95610

OAH No. 2014020735

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 **Hearing Aid Dispenser License No. HA 5058,**  
16  
17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 PARTIES

22 1. Paul Sanchez ("Complainant") is the Executive Officer of the Speech-Language  
23 Pathology and Audiology and Hearing Aid Dispensers Board. He brought this action solely in his  
24 official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the  
25 State of California, by Megan R. O'Carroll, Deputy Attorney General.

26 2. Respondent Keith Eric Rios ("Respondent") is represented in this proceeding by  
27 attorney Eric Hintz, whose address is: 1006 - 4th Street, Suite 220, Sacramento, CA 95814.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in the Amended  
3 Accusation No. 1C-2010-155, if proven at a hearing, constitute cause for imposing discipline  
4 upon his Hearing Aid Dispenser License.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
7 basis for the charges in the Amended Accusation, and that Respondent hereby gives up his right  
8 to contest those charges.

9 11. Respondent agrees that his Hearing Aid Dispenser License is subject to discipline  
10 and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
11 below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Speech-Language Pathology and  
14 Audiology and Hearing Aid Dispensers Board. Respondent understands and agrees that counsel  
15 for Complainant and the staff of the Speech-Language Pathology and Audiology and Hearing Aid  
16 Dispensers Board may communicate directly with the Board regarding this stipulation and  
17 settlement, without notice to or participation by Respondent or his counsel. By signing the  
18 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek  
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
20 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
22 action between the parties, and the Board shall not be disqualified from further action by having  
23 considered this matter.

24 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
25 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format  
26 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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1 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Hearing Aid Dispenser License No. HA 5058 issued to  
6 Respondent Keith Eric Rios (Respondent) is revoked. However, the revocation is stayed and  
7 Respondent is placed on probation for five (5) years on the following terms and conditions.

8 1. **SEVERABILITY CLAUSE** Each term and condition of probation is a separate and  
9 distinct term and condition. If any term or condition of this Decision and Order, or any  
10 application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of  
11 this Decision and Order, and all other applications thereof, shall not be affected. Each term and  
12 condition of this Decision and Order shall separately be valid and enforceable to the fullest extent  
13 permitted by law.

14 2. **OBEY ALL LAWS** Respondent shall obey all federal, state, US Military and local  
15 laws, including all statutes and regulations governing the practice of the licensee. Further,  
16 Respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and  
17 detailed account of such arrest.

18 3. **COMPLY WITH PROBATION PROGRAM** Respondent shall fully comply with the  
19 Board's probation program, and shall, upon notice, report to the Board's staff. Respondent shall  
20 contact enforcement staff regarding any questions specific to the probation order. Respondent  
21 shall not have any unsolicited or unapproved contact with victims or complainants associated  
22 with the case or persons serving the Board as expert consultants.

23 4. **CHANGES OF NAME AND CONTACT INFORMATION** Respondent shall  
24 notify the board in writing, within five (5) days of a change of name, residence or mailing  
25 address, telephone number, and email address.

26 5. **SUBMIT QUARTERLY WRITTEN DECLARATIONS** Respondent shall submit to  
27 the Board quarterly written declarations and verification of actions signed under penalty of  
28 perjury. These declarations shall certify and document compliance with all the terms and

1 conditions of probation.

2 6. EMPLOYEE NOTIFICATION When currently employed, applying for  
3 employment, or contracted to provide services as a speech-language pathologist, audiologist,  
4 dispensing audiologist, speech-language pathology assistant, or hearing aid dispenser,  
5 Respondent shall notify his or her employer and supervisor or contractor of the probationary  
6 status of respondent's license. This notification to the Respondent's current employer and  
7 supervisor, or contractor shall occur no later than the effective date of the Decision placing  
8 Respondent on probation. The Respondent shall notify any prospective employer and supervisor  
9 or contractor of his or her probationary status with the Board prior to accepting such employment.  
10 This notification shall include a copy of the Board's Decision placing Respondent on probation.

11 The Respondent shall provide to the Board the names, physical addresses, and telephone  
12 numbers of all employers, supervisors and contractors.

13 The Respondent shall complete and sign an agreement with the employer and supervisor, or  
14 contractor, and the Board to allow the Board to communicate with the employer and supervisor or  
15 contractor.

16 Respondent shall cause each employer and supervisor or contractor to submit quarterly  
17 written declarations to the Board. These declarations shall include a performance evaluation.

18 Respondent shall notify the Board, in writing, of any change in his or her employment  
19 status, within five (5) days of such change..

20 7. INTERVIEWS WITH BOARD REPRESENTATIVES Respondent shall appear in  
21 person for interviews with the Board, or its designee, upon request at various intervals and with  
22 reasonable notice.

23 8. EMPLOYMENT LIMITATIONS While on probation, Respondent may not work as  
24 a faculty member or instructor in an accredited or approved school of speech-language pathology  
25 or school of audiology.

26 9. EDUCATIONAL COURSE Respondent shall take and successfully complete course  
27 work substantially related to the violation. Within sixty (60) days of the effective date of the  
28 Decision, Respondent shall submit a plan to comply with this requirement. Respondent must

1 obtain approval of such plan by the Board prior to enrollment in any course of study. The course  
2 shall not count towards the continuing education requirements for licensure as a Hearing Aid  
3 Dispenser.

4 Respondent shall successfully complete the required remedial education no later than the  
5 end of the first year of probation. Upon successful completion of the course, Respondent shall  
6 cause the instructor to furnish proof to the Board immediately.

7 10. RECOVERY OF COSTS Respondent shall pay to the Board its costs of  
8 investigation and enforcement in the amount of \$8,737.50. Respondent shall be permitted to pay  
9 these costs in a payment plan approved by the Board, with payments to be completed within the  
10 first three years of the effective date of the order placing Respondent's license on probation.

11 Respondent shall pay to the Board its cost of probation monitoring on a monthly basis  
12 during the probationary term.

13 11. FUNCTION AS A LICENSEE Respondent, during the period of probation, shall  
14 engage in the practice of hearing aid dispensing in California for a minimum of sixteen (16) hours  
15 per week or sixty-four (64) hours per calendar month. For the purpose of compliance with this  
16 section, "engaged in the practice of hearing aid dispensing in California" may include, when  
17 approved by the Board, volunteer work in hearing aid dispensing, or work in any non-direct  
18 patient position that requires licensure. In the event Respondent should leave California to  
19 practice outside the state, Respondent must provide written notification (within five (5) calendar  
20 days) to the Board of the dates of departure and anticipated return to the state. Respondent's  
21 probation is tolled, if and when Respondent ceases practicing in California. Practice outside of  
22 California will not apply to the reduction of the probationary period.

23 In the event Respondent ceases to practice a minimum of sixteen (16) hours per calendar  
24 week or sixty-four (64) hours per calendar month in California, Respondent must provide written  
25 notification of that fact to the Board. The period when the Respondent is not practicing the  
26 minimum number of hours noted above, will not apply to the reduction of the probationary  
27 period. Absence from practice shall not relieve the Respondent from maintaining a current  
28 license. For purposes of this term and condition, non-practice due to Board ordered suspension

1 shall not be considered a period of non-practice. If Respondent stops practicing in California for a  
2 total of five (5) years for a speech-language pathologist, audiologist, or speech-language  
3 pathology assistant, or three (3) years for a hearing aid dispensers, Respondent's license shall be  
4 automatically cancelled.

5 If Respondent has not complied with this term and condition during the probationary  
6 period, and Respondent has presented sufficient documentation of his or her good faith efforts to  
7 comply with this term and condition, and if Respondent is in compliance with all other probation  
8 terms and conditions, the Board, in its sole discretion, may grant an extension of Respondent's  
9 probation period up to one year without further hearing in order to comply with this term and  
10 condition. During the one year extension, all original terms and conditions of probation shall  
11 apply unless they have been modified by the Board via a petition for modification of probation.

12 12. VOLUNTARY LICENSE SURRENDER During Respondent's term of probation, if  
13 he or she wishes to cease practice, Respondent may request in writing to surrender the license(s)  
14 to the Board. The Board shall evaluate the request based on the factual circumstances  
15 surrounding that particular request, and notify Respondent in writing whether is has been granted.  
16 Upon formal acceptance of the license surrender, Respondent's license will no longer be subject  
17 to the terms and conditions of probation. Respondent shall return the pocket license(s) and wall  
18 certificate(s) to the Board within ten (10) days of the effective date of the surrender.

19 Surrender of Respondent's license shall be considered a disciplinary action and shall  
20 become a part of Respondent's license history with the Board. If Respondent re-applies for a  
21 license, the application shall be treated as a petition for reinstatement of a revoked license.

22 13. VIOLATION OF PROBATION If Respondent violates probation in any respect, the  
23 Board may seek to revoke probation and carry out the disciplinary order that was stayed. The  
24 Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke  
25 Probation, an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed  
26 against Respondent during probation, the Board shall have continuing jurisdiction and the period  
27 of probation shall be extended and Respondent shall comply with all probation terms and  
28 conditions until the matter is final. No petition for modification or termination of probation shall

1 be considered while there is an accusation or petition to revoke probation pending against  
2 Respondent.

3 14. COMPLETION OF PROBATION Respondent's license will be fully restored upon  
4 successful completion of probation.

5 15. PRACTICE RESTRICTIONS: SERVING AS A SUPERVISOR Respondent may  
6 not function as a supervisor for any required professional experience (RPE) candidate, or any  
7 registered paraprofessional support personnel, or trainee during the period of probation or until  
8 approved by the Board.

9 16. PETITION FOR PENALTY RELIEF Respondent agrees that if he ever petitions for  
10 early termination of probation or reinstatement, all of the charges and allegations contained in  
11 Amended Accusation No. 1C 2010 155 shall be deemed true, correct and fully admitted by  
12 Respondent for purposes of any such proceeding or any other licensing proceeding involving  
13 Respondent in the State of California.

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
16 discussed it with my attorney, Eric Hintz. I understand the stipulation and the effect it will have  
17 on my Hearing Aid Dispenser License.

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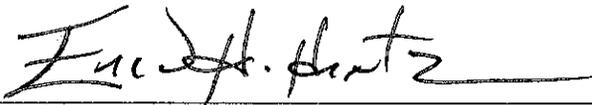
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1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
2 intelligently, and agree to be bound by the Decision and Order of the Speech-Language Pathology  
3 and Audiology and Hearing Aid Dispensers Board.

4  
5 DATED: 5/6/15   
6 KEITH ERIC RIOS  
Respondent

7 I have read and fully discussed with Respondent Keith Eric Rios the terms and conditions  
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
9 its form and content.

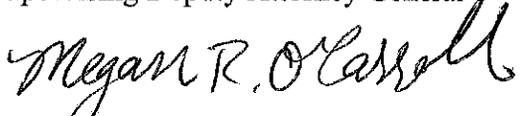
10 DATED: 4/30/15   
11 Eric Hintz  
12 Attorney for Respondent

13 ENDORSEMENT

14 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
15 submitted for consideration by the Speech-Language Pathology and Audiology and Hearing Aid  
16 Dispensers Board.

17 Dated: 5-28-15

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

  
MEGAN R. O'CARROLL  
Deputy Attorney General  
Attorneys for Complainant

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27 32053546.docx

**Exhibit A**

**Amended Accusation No. 1C-2010-155**

By *Yvonne Crawford*

1 KAMALA D. HARRIS  
Attorney General of California  
2 JUDITH T. ALVARADO  
Supervising Deputy Attorney General  
3 MEGAN R. O'CARROLL  
Deputy Attorney General  
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*Attorneys for Complainant*  
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9 **BEFORE THE**  
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11 **DISPENSERS BOARD**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

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Case No. 1C-2010-155

15 **KEITH ERIC RIOS**  
8041 Greenback Lane  
Citrus Heights, CA 95610

OAH No. 2014020735

**AMENDED ACCUSATION**

16 Hearing Aid Dispenser License No. HA 5058,  
17 Respondent.  
18  
19

20 Complainant alleges:

21 **PARTIES**

22 1. Paul Sanchez (Complainant) brings this Amended Accusation solely in his official  
23 capacity as the Executive Officer of the Speech-Language Pathology and Audiology and Hearing  
24 Aid Dispensers Board, Department of Consumer Affairs.

25 2. On or about May 12, 2004, the Speech-Language Pathology and Audiology and  
26 Hearing Aid Dispensers Board issued Hearing Aid Dispenser License Number HA 5058 to Keith  
27 Eric Rios (Respondent). The Hearing Aid Dispenser License was in full force and effect at all  
28 times relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.



1 the ear, testing of hearing in connection with the fitting and selling of hearing aids, taking of ear  
2 mold impressions, fitting or sale of hearing aids, and any necessary postfitting counseling.

3 "The practice of fitting or selling hearing aids does not include the act of concluding the  
4 transaction by a retail clerk.

5 "When any audiometer or other equipment is used in the practice of fitting or selling  
6 hearing aids, it shall be kept properly calibrated and in good working condition, and the  
7 calibration of the audiometer or other equipment shall be checked at least annually.

8 "(b) A hearing aid dispenser shall not conduct diagnostic hearing tests when conducting  
9 tests in connection with the practice of fitting or selling hearing aids.

10 "(c) Hearing tests conducted pursuant to this article shall include those that are in  
11 compliance with the Food and Drug Administration Guidelines for Hearing Aid Devices and  
12 those that are specifically covered in the licensing examination prepared and administered by the  
13 board."

14 8. Section 2538.14 of the Code states: "'Hearing aid dispenser,' as used in this article,  
15 means a person engaged in the practice of fitting or selling hearing aids to an individual with  
16 impaired hearing."

17 9. Section 2538.35 of the Code states:

18 "A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser  
19 a written receipt, signed by or on behalf of the licensee, containing all of the following:

20 "(a) The date of consummation of the sale.

21 "(b) Specifications as to the make, serial number, and model number of the hearing aid or  
22 aids sold.

23 "(c) The address of the principal place of business of the licensee, and the address and  
24 office hours at which the licensee shall be available for fitting or postfitting adjustments and  
25 servicing of the hearing aid or aids sold.

26 "(d) A statement to the effect that the aid or aids delivered to the purchaser are used or  
27 reconditioned, as the case may be, if that is the fact.

28 ///

1           "(e) The number of the licensee's license and the name and license number of any other  
2 hearing aid dispenser or temporary licensee who provided any recommendation or consultation  
3 regarding the purchase of the hearing aid.

4           "(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the  
5 Civil Code, made to the purchaser with respect to the hearing aid or hearing aids."

6           10.       Section 2538.36 of the Code states:

7           "(a) Whenever any of the following conditions are found to exist either from observations  
8 by the licensee or on the basis of information furnished by the prospective hearing aid user, a  
9 licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual  
10 in writing that his or her best interests would be served if he or she would consult a licensed  
11 physician specializing in diseases of the ear or if no such licensed physician is available in the  
12 community then to a duly licensed physician:

13           "(1) Visible congenital or traumatic deformity of the ear.

14           "(2) History of, or active drainage from the ear within the previous 90 days.

15           "(3) History of sudden or rapidly progressive hearing loss within the previous 90 days.

16           "(4) Acute or chronic dizziness.

17           "(5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.

18           "(6) Significant air-bone gap (when generally acceptable standards have been established).

19           "(7) Visible evidence of significant cerumen accumulation or a foreign body in the ear  
20 canal.

21           "(8) Pain or discomfort in the ear.

22           "(b) No referral for medical opinion need be made by any licensee in the instance of  
23 replacement only of a hearing aid that has been lost or damaged beyond repair within one year of  
24 the date of purchase. A copy of the written recommendation shall be retained by the licensee for  
25 the period provided for in Section 2538.38. A person receiving the written recommendation who  
26 elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with  
27 the other papers retained by the licensee for the period provided for in Section 2538.38. Nothing  
28 in this section required to be performed by a licensee shall mean that the licensee is engaged in

1 the diagnosis of illness or the practice of medicine or any other activity prohibited by the  
2 provisions of this code."

3 11. Section 2538.38 of the Code states: "A licensee shall, upon the consummation of a  
4 sale of a hearing aid, keep and maintain records in his or her office or place of business at all  
5 times and each record shall be kept and maintained for a seven year period. All records related to  
6 the sale and fitting of hearing aids shall be open to inspection by the bureau or its authorized  
7 representatives upon reasonable notice.

8 The records kept shall include:

9 (a) Results of test techniques as they pertain to fitting of the hearing aid.

10 (b) A copy of the written receipt required by Section 2538.35 and the written  
11 recommendation and receipt required by Section 2538.36 when applicable.

12 (c) Records of maintenance or calibration of equipment used in the practice of fitting or  
13 selling hearing aids.

14 12. Section 2538.39 of the Code states: "A hearing aid dispenser who is the owner,  
15 manager, or franchisee at a location where hearing aids are fit or sold, shall be responsible for the  
16 adequacy of the fitting or selling of any hearing aid fit and sold by any licensee or licensees at  
17 that location."

18 13. Section 2538.49 of the Code states:

19 "It is unlawful for a licensed hearing aid dispenser to fit or sell a hearing aid unless he or  
20 she first does all of the following:

21 "(a) Complies with all provisions of state laws and regulations relating to the fitting or  
22 selling of hearing aids.

23 "(b) Conducts a direct observation of the purchaser's ear canals.

24 "(c) Informs the purchaser of the address and office hours at which the licensee shall be  
25 available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold."

26 SONG-BEVERLY ACT

27 14. Civil Code Section 1793.02 provides in pertinent part:

28 ///





1 undated audiogram reflects significantly poorer thresholds than the February 25, 2010 audiogram.  
2 Respondent's chart notes do not contain any comments regarding the audiograms. Respondent's  
3 records do not indicate that he performed bone conduction testing at either audiogram.

4 20. On or about February 25, 2010, M.T. and Respondent entered into a purchase  
5 agreement for a pair of Microtech V16 receiver in the canal (RIC) hearing aids. The purchase  
6 agreement containing the seller's warranty was printed in typeface that is smaller than 10 point.  
7 It did not include the office hours that Respondent would be available for fitting or post-fitting  
8 adjustments and servicing of the hearing aids. M.T. paid \$2,900.00 with her Visa credit card.

9 21. On or about March 25, 2010, M.T. returned to Respondent's office and paid the  
10 balance of \$2,900.00 with her Visa credit card. Respondent fitted her with the hearing aids.  
11 Respondent's chart notes for March 25, 2010 contain inconsistent entries: "Delivery went great.  
12 Left mold does not fit. Send left mold for credit."

13 22. Respondent's chart notes for M.T. included a page titled "Service Sheet" with a  
14 column titled "service performed/adjustment notes. The Service Sheet did not contain  
15 Respondent's evaluation and assessment of M.T. for each date that she was seen in the office, the  
16 handwriting is illegible, and it appears that the entries for March 1, 2010, March 23, 2010 and  
17 March 25, 2010 were on a separate page which was cut and inserted onto the original chart note  
18 page. The dates of the last three entries on the page are difficult to read and are not in  
19 chronological order.

20 23. Respondent's records indicate a follow-up visit for M.T. was scheduled on April 13,  
21 2010 with subsequent follow-up approximately six weeks later. Respondent's chart notes do not  
22 indicate that he conducted post-fitting verification testing on April 13, 2010 or at any time  
23 thereafter.

24 **M.W.**

25 24. On or about May 18, 2012, M.W. was seen by Respondent at the California Hearing  
26 Aid Center, in Roseville, California. Respondent conducted and recorded audiometric testing for  
27 air conduction thresholds on M.W. The audiometric testing was conducted in a large conference  
28

1 room. Only air conduction testing was performed. There was no bone conduction testing  
2 performed.

3 25. On or about May 18, 2012, M.W. and Respondent entered into a purchase agreement  
4 for a pair of NuEar Look RIC hearing aids. The purchase agreement containing the seller's  
5 warranty was printed in typeface that is smaller than 10 point. It did not include the office hours  
6 that Respondent would be available for fitting or post-fitting adjustments and servicing of the  
7 hearing aids. M.W. paid a deposit in the amount of \$2,000.00.

8 26. After reviewing her insurance benefits, M.W. realized she would have a discount  
9 benefit if she purchased hearing aids through an "Epic" provider. She subsequently contacted  
10 California Hearing Aid Center to request hearing aids through "Epic." California Hearing Aid  
11 Center completed the "Epic" provider enrollment forms and ordered a pair of Starkey wil10  
12 hearing aids instead of the NuEar Look RIC hearing aids. Instead of completing a new purchase  
13 order for the Starkey wil10 hearing aids, California Hearing Aid Center wrote into the existing  
14 Purchase Agreement the words "will receive Starkey wil10." The altered Purchase Agreement  
15 was not presented to M.W. for review and signature.

16 27. M.W. waited several months to find out whether California Hearing Aid Center  
17 would be able to provide her with the hearing aids through Epic. An employee called her in  
18 October, 2012 to tell her that the order had been placed. Due to the length of time she had waited  
19 for a response, M.W. became frustrated and stated she did not want to accept delivery of the  
20 product and requested a refund of her \$2,000.00 deposit. M.W. never accepted delivery of the  
21 hearing aids. Respondent initially denied M.W.'s request for a refund, but subsequently refunded  
22 full amount of deposit in August of 2013.

23 28. On or about February 20, 2013, M.W. filed a complaint with the Hearing Aid  
24 Dispenser Board. The Board sought and obtained records from Respondent concerning M.W.,  
25 which included the Audiological Evaluation of May 18, 2012, the May 18, 2012 Purchase  
26 Agreement, a patient chart history, an Epic order form, and an Epic Hearing Services Plan  
27 Referral and Agreement.

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 M.T.

3 (Negligence and/or Failure to Maintain Records)

4 29. Paragraphs 18 through 23 are incorporated herein.

5 30. Respondent failed to perform bone conduction testing of M.T. as required to  
6 determine the need for medical referral and clearance prior to the selling or fitting of hearing aids.  
7 This conduct either constitutes a departure from the standard of practice and/or constitutes a  
8 failure to maintain accurate and complete medical records. Therefore Respondent's license is  
9 subject to discipline for violating Code section 2533, subdivision (f), [gross negligence], and/or  
10 Code section 2538.38, subdivision (a), [failure to maintain records] and CCR 1399.126.

11 SECOND CAUSE FOR DISCIPLINE

12 M.T.

13 (Violation of Song-Beverly Act)

14 31. Paragraphs 18 through 23 are incorporated herein.

15 32. When conducting the sale of hearing aid devices to M.T., Respondent failed to  
16 comply with the requirements of Civil Code section 1793.02 in that the warranty was not printed  
17 in 10-point bold, and did not include the office hours that Respondent would be available for  
18 fitting or post-fitting adjustments and servicing of the hearing aids.

19 33. Respondent's written warranty issued to M.T. is in violation of Civil Code section  
20 1793.02 and constitutes unprofessional conduct under Code sections 2533, subdivision (k),  
21 2538.39 and 2538.49.

22 THIRD CAUSE FOR DISCIPLINE

23 M.W.

24 (Gross Negligence)

25 34. Respondent is subject to disciplinary action under section 2533, subdivision (f) of the  
26 Code in that he committed gross negligence in the selling and fitting of hearing aids to M.W.

27 35. Paragraphs 24 through 28 are incorporated herein.

28 ///



1 42. Respondent's written warranty issued to M.W. is in violation of Civil Code section  
2 1793.02 and constitutes unprofessional conduct under Code sections 2533, subdivision (k),  
3 2538.39 and 2538.49.

4 P R A Y E R

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board issue a decision:

- 7 1. Revoking or suspending Hearing Aid Dispenser License Number HA 5058, issued to  
8 Keith Eric Rios;
- 9 2. Ordering Keith Eric Rios to pay the Board the reasonable costs of the investigation  
10 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: October 23, 2014



13 PAUL SANCHEZ  
14 Executive Officer  
15 Speech-Language Pathology and Audiology and Hearing  
16 Aid Dispensers Board  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant

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