

By *Quinta Gonzalez*

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

12 In the Matter of the Accusation Against:
13 Robert B. Green
28 Old Town Lane
14 Danville, CA 94526
Respondent
Audiologist License No. AU 1104

Case No. 11- 2011-57

A C C U S A T I O N

15 Complainant alleges:

16 PARTIES

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

20 2. On or about July 6, 1987, the Board issued Audiologist License Number AU1104 to
21 Robert B. Green (Respondent). Audiologist License Number AU1104 was in full force and
22 effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless
23 renewed.
24

25 JURISDICTION

26 3. This Accusation is brought before the Board, Department of Consumer Affairs, under
27 the authority of the following laws. All section references are to the Business and Professions
28 Code unless otherwise indicated.

1 4. Section 2530.1 of the Code states: "The Legislature finds and declares that the
2 practice of speech-language pathology and audiology and hearing aid dispensing in California
3 affects the public health, safety, and welfare and there is a necessity for those professions to be
4 subject to regulation and control."

5 5. Section 2530.2 of the Code states:

6 "As used in this chapter, unless the context otherwise requires:

7 "(a) 'Board' means the Speech-Language Pathology and Audiology and Hearing Aid
8 Dispensers Board. As used in this chapter or any other provision of law, 'Speech-Language
9 Pathology and Audiology Board' shall be deemed to refer to the Speech-Language Pathology and
10 Audiology and Hearing Aid Dispensers Board or any successor.

11 "(b) 'Person' means any individual, partnership, corporation, limited liability company, or
12 other organization or combination thereof, except that only individuals can be licensed under this
13 chapter.

14 "..."

15 "(j) An 'audiologist' is one who practices audiology.

16 "(k) 'The practice of audiology' means the application of principles, methods, and
17 procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction
18 related to auditory, vestibular, and related functions and the modification of communicative
19 disorders involving speech, language, auditory behavior or other aberrant behavior resulting from
20 auditory dysfunction; and the planning, directing, conducting, supervising, or participating in
21 programs of identification of auditory disorders, hearing conservation, cerumen removal, aural
22 habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures
23 including, but not limited to, specifying amplification requirements and evaluation of the results
24 thereof, auditory training, and speech reading, and the selling of hearing aids.

25 "(l) A 'dispensing audiologist' is a person who is authorized to sell hearing aids pursuant to
26 his or her audiology license.

27 "..."

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1 6. Section 2531.02 of the Code states:

2 "Protection of the public shall be the highest priority for the Speech-Language Pathology
3 and Audiology and Hearing Aid Dispensers Board in exercising its licensing, regulatory, and
4 disciplinary functions. Whenever the protection of the public is inconsistent with other interests
5 sought to be promoted, the protection of the public shall be paramount."

6 7. Section 2533 of the Code states:

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

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

13 "..."

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

16 8. Section 2533.1 of the Code states:

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

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27 ///

28 ///

1 COST RECOVERY

2 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 CAUSE FOR DISCIPLINE

7 (Substantially-related Conviction)

8 10. Respondent's license is subject to disciplinary action under code sections 2533(a) and
9 2533.1 [substantially related conviction] in that on or about October 15, 2013, he was convicted
10 on his plea of no contest to a violation of Penal Code section 487(b)(3) [grand theft by employee.]
11 The circumstances are as follows:

12 11. On or about August 26, 2013, criminal complaint no. 451541 titled *People of the*
13 *State of California vs. Robert Baron Green* was filed in Alameda County Superior Court. The
14 complaint alleged that on or about September 12, 2011, Respondent committed a felony violation
15 of Penal Code (PC) section 487(b)(3), theft from his employer Alta Bates Summit Medical Center
16 (ABSMC), exceeding \$950.00 over a twelve month consecutive period.

17 12. On or about October 15, 2013, Respondent was convicted on his plea of no contest to
18 a lesser included offense, and found guilty of a misdemeanor violation of PC 487(b)(3). He was
19 placed on three years probation on terms and conditions including but not limited to an order to
20 serve two days in County Jail with credit for two days; and he was ordered to pay restitution and
21 fines. The Court noted that Respondent had paid restitution in full, per the District Attorney.

22 13. The circumstances surrounding the conviction are as follows:

23 From December 11, 1989 until September 2011, Respondent was employed as an
24 Audiologist at Alta Bates Summit Medical Center (ABSMC). In that capacity, he provided
25 audiological evaluations to patients for hearing deficiencies, recommended, dispensed and
26 provided fitting and orientation of hearing aids for patients, and managed the hearing aid
27 dispensing program at ABSMC. ABSMC provided Conflict of Interest and Code of Ethical
28

1 Conduct training to Respondent. ABSMC's Conflict of Interest policy required Respondent to
2 disclose:

3 "any personal or other business relationship that is similar to or may compete with Sutter
4 Health or an Affiliate property, facilities, or resources; and

5 Any other actual or Potential Conflict of Interest that may call into question an employee's
6 duty of loyalty to Sutter Health or an Affiliate.

7 14. During the time Respondent was employed at ABSMC, he was also the owner of East
8 Bay Audiologists, a hearing aid dispensing business. On or around January 2011, ABSMC
9 learned of Respondent's ownership interest and an ABSMC Compliance Officer met with
10 Respondent. The Compliance Officer determined that no conflict of interest existed at that point,
11 however, she warned Respondent that a violation of the Conflict of Interest policy could result in
12 termination.

13 15. On or about August, 2011, an ABSMC employee found a credit card receipt for
14 Respondent's company, East Bay Audiologists, in a patient's file. On September 6, 2011, A.C.¹,
15 Respondent's manager, spoke with Respondent and asked for an explanation. He was flustered,
16 and told A.C. that he had no explanation. A.C. informed Respondent that she would notify J.D.,
17 the Human Resources (HR) Manager. Later, Respondent approached A.C. and apologized for
18 putting her "in a terrible position" and said that he had "been very unhappy for a long time." He
19 acknowledged that he could "lose his job over this."

20 16. On September 8, 2011, J.D., the HR Manager met with Respondent. At that point,
21 ABSMC had found one additional credit card receipt indicating that East Bay Audiologists,
22 Respondent's company, had received payment for hearing aids from an ABSMC patient. J.D.
23 showed Respondent the first credit card receipt and asked him if he had diverted business from
24 ABSMC to East Bay Audiologists, his company, in violation of ABSMC's policy. Respondent
25 answered, "Yes." J.D. produced the second credit card receipt and asked the same question.

26
27
28 ¹ Full names will be disclosed upon a Request for Discovery.

1 Respondent admitted that he had diverted business to his company for that patient as well, and
2 said "but that's all." Respondent was suspended while ABSMC conducted an investigation.

3 17. On or about September 12, 2011, A.C. met with Respondent and informed him that
4 his actions had created a conflict of interest and his employment was terminated. Further
5 investigation found that from approximately January 2010 through September 2011, Respondent
6 had diverted in excess of \$50,000.00 from ABSMC to his company East Bay Audiologists.

7 18. On or about September 20, 2011, A.C. reported to the Board that Respondent was
8 terminated from employment for stealing business from ABSMC and that Respondent had
9 dispensed hearing aids through his private company while he was employed at ABSMC.

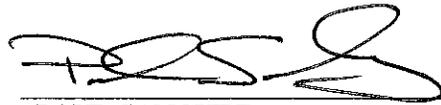
10 PRAYER

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

- 14 1. Revoking or suspending Audiologist Number AU1104, issued to Robert B. Green;
15 2. Ordering Robert B. Green to pay the Speech-Language Pathology and Audiology and
16 Hearing Aid Dispensers Board the reasonable costs of the investigation and enforcement of this
17 case, pursuant to Business and Professions Code section 125.3;
18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: _____

11/14/2014



22 PAUL SANCHEZ
23 Executive Officer
24 Speech-Language Pathology and Audiology and Hearing
25 Aid Dispensers Board
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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