BEFORE THE IOWA BOARD OF EXAMINERS FOR THE LICENSING AND REGULATION OF HEARING AID DISPENSERS

IN THE MATTER OF:) Case numbers 01-011, 01-012
Henry F. Schmidt,) COMBINED STATEMENT OF CHARGES, SETTLEMENT
Respondent.) AGREEMENT AND FINAL ORDER

COME NOW the Iowa Board for the Licensing and Regulation of Hearing Aid
Dispensers (Board) and Henry F. Schmidt (Respondent), and pursuant to Iowa Code
sections 17A.10 and 272C.3(4) (2005) and chapter 645 Iowa Administrative Code (IAC)
rule 12.1, enter into the following Combined Statement of Charges, Settlement
Agreement and Final Order ("Settlement Agreement") of this case.

- Respondent is licensed to dispense hearing aids in the state of Iowa.
 Respondent was issued license number 271-00396 to dispense hearing aids in the state of Iowa on February 25, 1985.
- 2. Respondent's current address as reported to the Board is 3171 Larch Avenue, Sheldon, Iowa 51201.
 - 3. The Board has jurisdiction of the parties and the subject matter.

STATEMENT OF CHARGES

COUNT I

4. Respondent is charged pursuant to Iowa Code sections 147.55(3), 154A.20, 154A.24(3)(a) and 272C.10(3) (2005), and 645 IAC 124.2(4), for selling as new a set of used hearing aids that had merely been repaired.

CIRCUMSTANCES

5. In March 2001 Respondent sold hearing aids to an elderly client.

Respondent represented in writing that the hearing aids were new when in fact he knew the hearing aids were the client's old hearing aids that had been sent for repair. He charged the elderly client the price of new aids. He defended this misrepresentation by a further misrepresentation concerning manufacturer's policies. He refunded the client's money only upon learning his misrepresentations were evident to both the client and

SETTLEMENT AGREEMENT AND FINAL ORDER

- 6. Respondent's license is placed on probation for one (1) year, subject to the following terms.
- (a) Respondent shall immediately provide any employer a copy of thisSettlement Agreement.

other health care professionals.

- (b) Respondent shall submit quarterly reports to the Board by the 10th day of each quarter (January 10, April 10, etc.) covering Respondent's dispensing of hearing aids the previous quarter, which include the following:
 - i. The name and address of each customer.
 - ii. For each customer, Respondent shall list the date of sale of each instrument identified by brand, model, serial number and whether the instrument is new or used.
- (c) Respondent shall advise the Board of any changes of address or employment within ten days of making such a change.

- (d) Respondent shall make appearances before the Board upon request. Respondent shall be given reasonable notice of the date, time and location for the appearance. Said appearances shall be subject to the waiver provisions of 645 IAC 9.7.
- (e) Respondent shall obey all federal, state and local statutes and regulations governing the practice of dispensing hearing aids.
- 7. Respondent shall pay a civil penalty in the amount of \$1,000 to the Board.

 The payment shall be made within 30 days of the Board's approval of this agreement.
- 8. In the event Respondent violates or fails to comply with any of the terms of this Settlement Agreement and Final Order, the Board may initiate appropriate action to revoke or suspend Respondent's license or to impose other discipline as authorized by law.
- 9. This Settlement Agreement and Final Order does not preclude the Board from initiating discipline actions on any future complaints and violations. It does settle all complaints presently before the Board.
- 10. This Settlement Agreement and Final Order is the resolution of a contested case. By entering into this Settlement Agreement, Respondent waives all rights to a contested case hearing, and waives any objection to the terms of this Settlement Agreement.
- 11. This Settlement Agreement and Final Order is voluntarily submitted by Respondent to the Board for its consideration. Respondent agrees that the Board's counsel may present this agreement ex parte to Board for its consideration.

- 12. This Settlement Agreement and Final Order must be approved by the Board. If the Board fails to approve this Settlement Agreement, it shall be of no force or effect to either party.
- 13. This agreement shall be part of the permanent record of Respondent and shall be considered by the Board in determining the nature and severity of any disciplinary action to be imposed in the event of any future violations.
- 14. This Settlement Agreement and Final Order as well as the Statement of Charges are public records available for inspection and copying in accordance with the requirements of Iowa Code Chapter 22.
- 15. The Board's approval of this Settlement Agreement and Final Order shall constitute a FINAL ORDER of the Board.

This Settlement Agreement and Final Order is approved by the Board on January 30, 2006.