BEFORE THE IOWA BOARD OF HEARING AID DISPENSERS

IN THE MATTER OF: Timothy Knoell License No. 00518, Respondent.	CASE NO 07-001 NOTICE OF HEARING AND STATEMENT OF CHARGES

COMES NOW the Iowa Board of Hearing Aid Dispensers and files this Notice of Hearing and Statement of Charges pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 645 Iowa Administrative Code (IAC) 11.6. Respondent was issued Iowa Hearing Aid Dispenser License 00518 on February 13, 1989. Respondent's license is inactive as of December 31, 2008. Respondent's last known address is 1106 E. 7th Street, Atlantic, Iowa 50022.

A. TIME, PLACE AND NATURE OF HEARING

Hearing. A disciplinary contested case hearing shall be held on May 4, 2009 before the Board of Hearing Aid Dispensers. The hearing shall begin at 1:00 PM and shall be located in the Lucas State Office Building, Fifth Floor Board Conference Room 526, Des Moines, Iowa.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges you are required by 645 IAC 11.12 to file an Answer. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges. Pleadings shall be filed with the Board at the following address: Board of Hearing Aid Dispensers, 5th Floor, Lucas State Office Building, Des Moines, Iowa, 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge make initial rulings on pre-hearing matters, and be present to assist and advise the board at hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 641 IAC chapter11. At hearing, you may appear personally or be represented by legal counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at hearing. If you need to request an alternative time or date for hearing, you

must comply with the requirements of 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Pre-hearing Conference. Any party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board's rules regarding pre-hearing conferences are contained at 645 IAC 11.17.

Prosecution. The Office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address: Julie Bussanmas, Assistant Attorney General, Iowa Attorney General's Office, 2nd Floor, Hoover State Office Building, Des Moines, Iowa 50319.

Communications. You may not contact board members in any manner, including by phone, letter, or e-mail, about this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

B. LEGAL AUTHORITY AND JURISDICTION

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code Chapters 147, 154A, and 272C.

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code Chapters 17A, 147, 154A, and 272C and 645 IAC chapter 124.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code Section 17A.12(3) and 645 IAC 11.21.

C. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

Respondent is charged with engaging in unethical conduct or in a practice that is harmful or detrimental to the public, in violation of Iowa Code sections 154A.24(3)(l) and (m), 147.55(3), and 272C.10(3); and 645 Iowa Administrative Code sections 124.2(4) and 124.2(9).

Count II

Respondent is charged with professional incompetency by substantially deviating from the standards of learning or skill ordinarily possessed and applied by other hearing

aid dispensers or by failing to exercise the degree of care which is ordinarily exercised by the average hearing aid dispenser acting in the same or similar circumstances in violation of Iowa Code sections 147.55(2) and 272C.10(2); and 645 Iowa Administrative Code sections 124.2(3) (b), and (c); and 124.2(9).

D. FACTUAL CIRCUMSTANCES

1. On or about November 29, 2006, Client A entered into a purchase agreement with Respondent for two hearing aids. Respondent filled out a credit card application for Client A to pay for the hearing aid purchase.

2. In January 2007, prior to delivery of the hearing aids, Client A's daughter learned of the transaction after receiving the new credit card statement. She informed Respondent that Client A had numerous health problems, including dementia and requested that the hearing aid order be cancelled. Respondent cancelled the order but failed to refund the purchase on Client A's credit card.

3. On February 20, 2007, Client A returned to Respondent and demanded the hearing aids he had ordered and was paying for. After Respondent got Client A to sign an agreement that he would not to call the police if Respondent resold him hearing aids, and despite Respondent's prior knowledge of Client A's health conditions, Respondent ordered Client A a new pair of hearing aids.

4. Respondent's records indicate that he did not perform a health history or conduct bone conduction testing, speech reception testing or speech discrimination testing on Client A prior to selling him hearing aids on either occasion.

E. SETTLEMENT

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC chapter 12. If you are interested in pursuing settlement of this matter, please contact Julie Bussanmas, Assistant Attorney General, at 515.281.7175.

F. PROBABLE CAUSE FINDING

On this 2nd day of February, 2009 the Iowa Board of Hearing Aid Dispensers found probable cause to file this Notice of Hearing and Statement of Charges and to order that a hearing be set in this case.

This notice of hearing and statement of charges is approved by the board on February 2, 2009.