

IN THE MATTER OF
ASHER P. ELKAYAM, HAD
LICENSE NUMBER: 01520
RESPONDENT

* BEFORE THE STATE BOARD OF
* EXAMINERS FOR AUDIOLOGISTS
* HEARING AID DISPENSERS AND
* SPEECH-LANGUAGE PATHOLOGISTS
* CASE NUMBER: AHS 21-07

* * * * *

CONSENT ORDER

The State Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists (“the Board”) notified Asher P. Elkayam, HAD (the Respondent”), d.o.b. 09/28/1942, license number: 01520, of the Board’s intent to revoke his license to provide hearing aid services under the Maryland Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists Act (“the Act”), Md. Health Occ. Code Ann. (“H.O.”) §§ 2-101 *et seq.* (Repl. Vol. 2005 and Supp. 2008): The pertinent provisions state:

H.O. § 2-314. Denial, reprimands, suspensions, and revocations –Grounds.

Subject to the hearing provisions of § 2-315 of this subtitle, the Board may deny a license or limited license to any applicant, reprimand any licensee or holder of a limited license, place any licensee or holder of a limited license on probation, or suspend or revoke a license or limited license if the applicant,

- (4) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;

A case resolution conference was held on February 19, 2009. As a result of the case resolution conference, the parties agreed to enter into this Consent Order.

FINDINGS OF FACT

The Board finds that:

1. The Respondent is licensed to practice hearing aid dispensing in Maryland, having been issued license number: 01520.¹
2. The Respondent owns and operates Trutone/Westminster Hearing Aid Center ("Trutone") located in Reisterstown, Maryland.
3. On or about June 4, 2007, the Respondent was indicted by the Grand Jury of the State of Maryland for Baltimore County on thirty (32) counts of Felony Insurance Fraud, in violation of Md. Ins. Code Ann. § 27-403, and two (2) counts of Felony Theft, Md. Crim. L. Code Ann. § 7-104. (A copy of the criminal indictment in *State of Maryland v. Asher P. Elkayam*, Case Number: 03-k-07-002471 is attached hereto and incorporated herein as Exhibit A).
4. On or about December 18, 2007, the Respondent entered an Alford plea in the Circuit Court for Baltimore County to one count of Felony Insurance Fraud, in violation of Md. Ins. Code Ann. § 27-403(2). (A copy of the Plea Hearing Transcript and the Docket Entries in *State of Maryland v. Asher P. Elkayam*, Case Number: 03-k-07-002471, are attached hereto and incorporated herein as Exhibit B).
5. The Respondent was indicted for submitting false and misleading documentation to insurance companies to support insurance claims.
6. On or about December 18, 2007, the Respondent was found guilty by Judge John Grason Turnbull II, in the Circuit Court for Baltimore County, Maryland, on one (1) count of Felony Insurance Fraud.

¹ Prior to 1992, the Respondent's license to provide hearing aid service was issued by the Department of

7. Pursuant to Md. Health Occ. Code Ann. § 2-314(4), the Respondent was convicted of a felony and a crime involving moral turpitude.

8. On October 6, 2008, Judge Turnbull struck the guilty finding of December 18, 2007 and entered a finding of probation before judgment, pursuant to Md. Crim. P. Code Ann. § 6-220.

CONCLUSIONS

Based on the foregoing findings of fact, the Board concludes, as a matter of law, that the Respondent violated H.O. § 2-314 (4).

ORDER

Based on the foregoing findings of fact and conclusions of law, it is this 7th day of August 2009, by a majority of the full authorized membership of the Board, hereby:

ORDERED that the Respondent's license to practice hearing aid dispensing shall be shall be **SUSPENDED** for a period of one (1) year; and it is further

ORDERED that said suspension shall be **STAYED**; and it is further

ORDERED that the Respondent shall be placed on **PROBATION** for a period of two (2) years, subject to the following conditions:

1. The Respondent shall successfully complete a Board pre-approved ethics course;

2. The Respondent shall successfully complete a Board pre-approved billing and coding course; and

3. The courses set forth in paragraphs 1 and 2 above shall not be used to satisfy the requirements for licensing renewal; and it is further

ORDERED that the Respondent may apply for termination of his probationary period after he has served no less than nine (9) months of his probationary term; and it is further

ORDERED that the Respondent shall comply with and practice within all statutes and regulations governing the practice of providing hearing aid services in the State of Maryland; and it is further

ORDERED that any violation of the terms and conditions of this Consent Order shall constitute unprofessional conduct, in addition to any other applicable grounds under the Act; and it is further

ORDERED that any violation of the terms and conditions herein shall constitute a violation of probation and of this Consent Order; and it is further

ORDERED that, if the Board has not granted a prior petition, then, at the end of Respondent's two-year probationary period, the Respondent shall file a written petition to the Board for termination of the probationary status and the removal of any conditions or restrictions that resulted from this disciplinary action provided that he has fulfilled all the terms and conditions set forth herein, is not in violation of this order, and there are no outstanding complaints against the Respondent; and it is further

ORDERED that if the Respondent fails to make any such petition, then the probationary period status shall continue indefinitely, subject to the conditions set forth in this Consent Order; and it is further

ORDERED that if the Board determines that the terms or conditions of this Consent Order have not been successfully completed, the Board may modify one or more terms or conditions upon which the Respondent was placed on probation, upon notice to the Respondent; and it is further

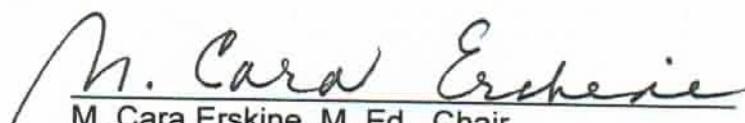
ORDERED that if the Respondent violates any of the terms of this Consent Order, the Board, after notice and a hearing, and a determination of violation, may impose any other disciplinary sanctions it deems appropriate, said violation being proved by a preponderance of evidence; and it is further

ORDERED that the Respondent shall be responsible for all costs incurred under this Consent Order; and it is further

ORDERED that the effective date of this Consent Order is the date that this Consent Order is signed by the Board; and it is further

ORDERED that, for purposes of public disclosure and as permitted by Md. State Govt. Code Ann. § 10-617(h) (Repl. Vol. 2004 & Supp. 2008), this document consists of the contents of the foregoing findings of fact, conclusions of law, and order, and is reportable to any entity to whom the Board is obligated to report; and be it further

ORDERED that this Consent Order is a public document pursuant to Md. State Govt. Code Ann. §§ 10-601 *et seq.* (Repl. Vol. 2004 & Supp. 2008).



M. Cara Erskine, M. Ed., Chair
Maryland Board of Examiners for
Audiologists, Hearing-Aid Dispensers and
Speech-Language Pathologists

CONSENT OF ASHER P. ELKAYAM

I, Asher P. Elkayam, by affixing my signature hereto, acknowledge that:

1. ~~I am represented by an attorney.~~ 

2. I am aware that I am entitled to a formal evidentiary hearing before the Board, pursuant to Md. Health Occ. Code Ann. § 2-315 (Repl. Vol. 2005) and Md. State Govt. Code Ann. §§ 10-201 et seq. (Repl. Vol. 2004 & Supp. 2008).

3. I acknowledge the validity and enforceability of this Consent Order as if entered after a formal evidentiary hearing in which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other substantive and procedural protections provided by law. I am waiving those procedural and substantive protections.

4. I voluntarily enter into and consent to the foregoing findings of fact, conclusions of law, and order and agree to abide by the terms and conditions set forth herein as a resolution of the Board's case based on the findings set forth herein.

5. I waive my right to contest the findings of fact and conclusions of law, and I waive my right to a full evidentiary hearing, and any right to appeal this Consent Order as set forth in Md. Health Occ. Code Ann. § 2-316 (Rep. Vol. 2005) and Md. State Govt. Code Ann. §§ 10-201 et seq. (Rep. Vol. 2004 and Supp. 2008).

6. I acknowledge that by failing to abide by the terms and conditions set forth in this Consent Order, and, following proper procedures, I may be subject to disciplinary action, which may include revocation of my license to provide hearing air services in the State of Maryland.

7. I sign this Consent Order, without reservation, as my voluntary act and deed. I acknowledge that I fully understand and comprehend the language, meaning, and terms of this Consent Order.

8/3/09
Date



Asher P. Elkayam

NOTARY

STATE OF MARYLAND

CITY/COUNTY OF Carroll

I HEREBY CERTIFY THAT on this 3 day of August, 2009, before me, a Notary Public for the State of Maryland and the City/County aforesaid, personally appeared Asher P. Elkayam and made oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Teresa Thornton, Notary Public
Carroll County
State of Maryland



Notary Public

My Commission Expires Aug. 27, 2011
My Commission Expires: _____