

HEARING AID COUNCIL

Meeting

of

DISCIPLINARY COMMITTEE

FAST TRACK DISCIPLINARY HEARING

held at

70 St Mary Axe
London EC3A 8BD

on

24 April 2008

The case of: DR GRAHAM DAY

Before the Panel of:

MR CHRIS HUGHES (CHAIR)
MR TONY CORCORAN
MR MARK GEORGEVIC

MR DAVID GRANT: LEGAL ASSESSOR
MRS HAWTHORNE: SOLICITOR FOR THE HAC
MS AMICIE KNOWLES: CLERK TO HAC

The RESPONDENT attended via telephone without representation.

Transcript of the Shorthand Notes of
Ubiquis
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1 [DECISION ON SANCTION]

2 CHAIR: Hello Dr Day. I'll just formulate the decision on sanction. This case relates to
3 two charges in connection with the care of a patient of Dr Day's on whom he
4 conducted audiometry in May 2000 and October 2006. On both occasions he did
5 not carry out audiometry in accordance with the British Society of Audiometry
6 Recommended Procedures for Puretone Audiometry.

7 CHAIR: And as he clearly and rightly acknowledged in his plea that he has admitted that
8 full audiometry was not performed. He has powerfully argued as to the
9 circumstances of that. He gave a very broad clinical history of his relationship with
10 this patient, and also in mitigation we have the very persuasive letter from one of
11 his clinical colleagues, an ENT surgeon. In the light of this mitigation we have
12 looked at the question of sanction. We are satisfied on this occasion that this is not
13 a breach of very great severity, however it is a breach the nature of which would not
14 be fully remedied by the imposition of a reprimand.. Accordingly, in respect of
15 each charge we impose a sanction of £250. So a total sanction of £500.

16 _____
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18 [DECISION ON COSTS]

19 CHAIR: Dr Day, we have now considered the application for costs and your comments in
20 response to it. We're fully aware of the mitigation you have put forward and we are
21 also aware that much of the costs in this case have been driven by the need to check
22 and consider those arguments which you put forward to Iodem. These arguments
23 are arguments of substance which needed checking and did have some force. They
24 influenced us in coming to our view as to the penalty and also, derived from that,
25 we recognise therefore that those costs were not in any way thrown away and were
26 properly incurred. However, since we have taken that view of that work which

1 needed to be done and also that we think that that consideration was beneficial to
2 the process, it would seem to this Committee to be unduly harsh to award the full
3 costs sought in this matter.

4 In the circumstances, the Committee has decided to award costs in the sum
5 of £1,500. Now, Dr Day, that means we've awarded a penalty of £500 and costs of
6 £1,500, so that means a total sum to be paid by you of £2,000.

7 RESPONDENT: So if I hadn't bothered defending this case I would have been sat in the
8 same position. I was told the Fast Track would be a £2,000 fine.

9 CHAIR: I'm not in a position to comment on that. The issue now is there is an order to
10 pay a total of £2,000. Are you able to pay it swiftly, or would you like time to pay?

11 RESPONDENT: If I could pay it by monthly instalments I'd be happier.

12 CHAIR: Very well. It was my thought that the simplest way would be monthly
13 instalments of £200. Would that be feasible for you?

14 RESPONDENT: That's okay, yes.

15 CHAIR: Very well. I direct that the sum of £2,000 be paid by monthly instalments, the
16 first payment to be made on or before 10 May and then by nine subsequent
17 payments of £200. If any payment is in default then the whole sum will become
18 payable forthwith.

19 Thank you very much Dr Day. That concludes the hearing for today.

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21 [The hearing concluded]

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