

1 HEARING AID COUNCIL PROCEEDINGS

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3 **Meeting of the**
4
5 **DISCIPLINARY COMMITTEE**

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7 Held at:

8
9 Broad Street House,
10 55 Old Broad Street,
11 London EC2M 1RX

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13 On
14 Tuesday, 30 June 2009

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18 PRESENT:

19
20 MR CHRISTOPHER HUGHES OBE
21 (THE CHAIR)

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23 Panel Members:

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25 MR HUW VAUGHAN THOMAS
26 MR MICHAEL BISHOP
27 MR DAVID PYLE
28 MR TONY CORCORAN

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30 Legal Assessor:
31 MR MICHAEL VERE-HODGE QC

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35 MR CHRISTOPHER WHALLEY appeared on behalf of the Hearing Aid Council.

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37 MR MICHAEL FIELD represented himself

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41 **In the matter of:**

42
43 MICHAEL FIELD

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46 Transcript produced by Sellers Legal Services
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48 Tel: +44 (0)20 7405 4512

Tuesday, 30th June, 2009

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3 THE CHAIR: In this case there are a number of charges which may properly be summarised as relating
4 to a period between 11th November 2003 and 15th September 2006 when Mr Michael Field was
5 a director of a Company and responsible by his own admission for client care; he was also a joint
6 owner. On the evidence available it is clear that the Company which was a start-up, made an
7 operating loss. Mr Field admitted that in April 2006 he took steps to ensure that money properly
8 payable to the Company was paid into his own bank account. On the 28th April, he resigned as
9 an employee of the Company, but remained a director and effectively at that point the Company
10 ceased to provide services to customers to whom Mr Field as a dispenser had recently provided
11 hearing aids. He continued as a director for some months during which time these customers
12 were unable to obtain services from his company. We note that in August 2006 his professional
13 responsibilities were drawn to his attention and he took some steps to remedy this deficiency.
14 On 15th September 2006 he resigned as a director. We have taken full account of the evidence
15 and the submissions he has put forward, and indeed the submissions written by his solicitors.
16 However clearly there were inaccuracies within their letter on matters where we simply cannot
17 accept the interpretation of the facts they assert. For example, in the light of his own financial
18 dealings with the Company we find the statement:

19 "However, until he resigned Mr Field continued to take on new clients because notwithstanding
20 his own personal financial difficulties, he had no reason to believe that the Company would not or
21 could not continue to trade and look after such clients."

22 In the light of his own financial dealings with the Company, we find that stretches credibility a little too
23 far.

24 Turning then to the Charges, Charge 1. These Charges are of two sorts. They are Charges under
25 Clause 1(a):

26 "All dispensers and all employers of dispensers shall maintain at all times a high standard of
27 ethical conduct in the operation of their practices and in the dispensing of hearing aids and
28 training of trainees."

1 And also Clause 18:

2 "The dispensers and employers shall make reasonable provision for the servicing of hearing aids
3 and ancillary equipment supplied by them whether of their own make or not."

4 The first charge was brought under Clause 1(a) and was in two parts. The substance of the charge was
5 that he continued to visit clients and enter into contracts for the supply of hearing aids and
6 moulds during early 2006, until he resigned as an employee of the Company, and this was a
7 failure to comply with the obligation to maintain a high standard of ethical conduct, and the first
8 part was that he knew, or ought to have known, that the Company was insolvent and could not
9 fully honour its commitments. The advice we have received from our learned legal assessor is
10 that there is inadequate evidence to demonstrate that the Company was insolvent, and
11 accordingly we do not find the first limb of Charge 1 proven. However, the second limb is "you
12 failed to take steps to protect the interest of your clients in relation to the financial difficulties
13 faced by the Company", and we find that amply proven.

14 The second charge relating to a Mr Parfitt, who had received demonstration aids, and we find as a
15 matter of construction that the charge is not made out. Charge 3, again relating to that client is a
16 failure to comply with Clause 1(a) in that he failed to provide a proper telephone and electronic
17 communication service to enable Mr Parfitt to contact him to arrange the fitting of new Phonak
18 aids which he purchased, we find this charge is made out. Charge 4 is for similar reasons, again
19 relating to a temporary aid for another client, is not made out. Clause 5 is made out. Clause 6
20 and 7 relate to a client where there was diversion of money from the Company to Mr Field's
21 benefit, and we find that charge 6 relating to failure to make proper arrangements for servicing is
22 made out, and we find that Charge 7, a similar charge with respect to unethical conduct is made
23 out. Charges 8 and 9, again, are in circumstances where there was diversion of money, and
24 again we find these charges made out.

25 Charge 10, we find there is insufficient evidence for the charge to be made out and Charges 11 and
26 12 relating to the supply of - the repair of a hearing aid, again we find the Charges under Clause
27 18 and Clause 1(a) are made out. So to summarise, Charge 1 the second limb, Charge 3, 5, 6,
28 7, 8, 9, 11 and 12 are made out.

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(Panel retired to consider sanction)

THE CHAIR: Mr Field's failure to discharge his responsibilities to his clients in an ethical fashion caused a significant number of clients distress, discomfort, social isolation and anger. He was fully aware that the Company of which he remained a director and remained half-owner was collapsing, and he walked away from it. He only returned to address the needs of his clients and patients when the Hearing Aid Council wrote to him and reminded him of his obligations, at which point he did take some steps to protect his patients. However, in these circumstances, the Disciplinary Committee is satisfied that admonition and financial penalty do not properly reflect the breach of Clause 1(a) which has occurred. In the circumstances, in order to ensure that registered professionals understand that they have an ethical responsibility to look after their patients' welfare and to properly reflect the gravity of Mr Field's conduct, the Disciplinary Committee has decided that with respect to the charges under Clause 1(a), Mr Field should be suspended from the Register for a period of three months, and that is in respect of each charge, so clearly suspension totals three months. Given that the Clause 18 charges were in essence in alternative to the Clause 1 charge with respect to the various patients, no sanction is imposed with respect of the Clause 18 charges.

(Panel withdrew to consider)

THE CHAIR: I have been asked to confirm the precise sanction imposed, and that was a three month suspension. That is imposed in respect of each and every Clause 1 charge which we found proven. However, these are concurrent, and therefore the suspension would come to an end in the autumn of this year. Now turning to the question of costs, costs are sought in the sum of £26,641.18 including VAT. The Disciplinary Committee has considered the application for costs and is satisfied that the sums sought are broadly proportionate. We award costs in a reduced sum however, having regard to all the circumstances in the case, in the sum of £15,000. Sharing with our learned legal assessor, the uncertainty as to the precise law of IVAs, we invite the IVA adviser, should he wish to make any representations to this, with respect to this, to make them in writing by the end of July so that they can be considered at a subsequent meeting of the

1 Disciplinary Committee. And that concludes the business for today.

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(Committee adjourned for the day)

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