

**IN THE MATTER OF
SHOMARI M. SMITH
APPLICANT**

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**BEFORE THE MARYLAND
BOARD OF EXAMINERS FOR
AUDIOLOGISTS, HEARING
AID DISPENSERS & SPEECH
LANGUAGE PATHOLOGISTS**

CONSENT ORDER OF REPRIMAND

On or about December 14, 2018, Shomari M. Smith (the “Applicant”) submitted an application for a limited license to practice hearing aid dispensing in the State of Maryland to the Maryland Board of Examiners for Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists (the “Board”). Upon completion of a criminal history record check as required by Md. Code Ann., Health Occ. Article (“H.O.”) § 2-303.1, the Board learned that the Applicant had a criminal history. The Board initiated an investigation.

Based upon the Applicant’s submitted Application, the court documents obtained during the Board’s investigation, and the Applicant’s narrative statements, the Board voted to offer a Consent Order of Reprimand to the Applicant, in lieu of issuing Charges for violations of the Maryland Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists Act (the “Act”), H.O. § 2-101 *et seq.* As a result of that offer, the Applicant and the Board agreed to the following Consent Order.

FINDINGS OF FACT

The Board finds that:

1. On or about December 14, 2018, the Applicant submitted to the Board an

application for a limited license to practice hearing aid dispensing in the State of Maryland (the “Application”).

2. In the character and fitness portion of the Application, the Applicant answered “NO” to Question 8: “Have you ever been convicted of a felony or a misdemeanor involving moral turpitude?”

3. In correspondence dated January 18, 2019, the Board informed the Applicant that it was in receipt of information that he had a positive criminal history and requested that the Applicant submit a narrative explanation and include court documentation of his criminal history.

4. In a letter dated February 9, 2019, the Applicant offered a detailed explanation of a number of traffic infractions. The Applicant explained that because he was not given the opportunity to review a copy of his national criminal history report, the only criminal history that he was aware of were traffic violations. The Applicant submitted the court documentation of each traffic violation to the Board. The Applicant further explained that he marked “no” on his Application because he “didn’t consider his traffic convictions as criminal.”

5. Court records obtained by the Board indicate that on September 5, 2006, in the Butler County Area Courts, Westchester, Ohio, the Applicant pled guilty to and was convicted of attempted theft, a crime of moral turpitude. The Applicant was sentenced to thirty (30) days incarceration with thirty (30) days suspended and two (2) years unsupervised probation. The Applicant was ordered to return the property and pay court fines and costs in the amount of \$325.00. Court documents indicate that the Applicant satisfied payment of costs and fines in July 2011.

6. On or about March 25, 2019, the Applicant contacted the Board's Executive Director who informed the Applicant that his national criminal history background check indicated non-traffic related criminal history and that his application would remain incomplete until an explanation and court documents were received. On March 27, 2019, the Board provided a copy of the national criminal history background check to the Applicant.

7. On or about April 15, 2019, the Applicant submitted his second narrative statement to the Board wherein he explained that his conviction for attempted theft was the result of taking the blame for someone else's actions.

8. On or about May 16, 2019, the Applicant met with Board representatives at an informal meeting. The Applicant stated that when he spoke with Board staff, he did not consider traffic and juvenile cases "criminal." He testified that when he completed the Application, he believed that only the traffic violations were "relevant" in response to the criminal history question. He explained that he had just turned 18-years-old as his theft case was being adjudicated so, he "had no indication he was being convicted as an adult."¹

9. The Applicant acknowledged the Board's concern that his failure to disclose material information on his application raised questions about his ability to work with consumers, some of whom may be vulnerable.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that the Applicant violated Md. Code Ann., Health Occ. § 2-314(1) ("Fraudulently or deceptively obtains or attempts to obtain a license or limited license for the applicant, licensee, or holder, or for another;"), in that

¹ Court documents indicate that the attempted theft incident that resulted in the Applicant's conviction occurred on June 21, 2006, when the Applicant was 19-years-old.

the Applicant failed to disclose material information on his Application.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the request by the Applicant for limited licensure to practice hearing aid dispensing in the State of Maryland is hereby **GRANTED**; and it is further

ORDERED that the Board shall **ISSUE** to the Applicant a limited license to practice as a hearing aid dispenser in the State of Maryland; and it is further

ORDERED that the limited license of the Applicant to practice as a hearing aid dispenser in the State of Maryland is hereby **REPRIMANDED**; and it is further

ORDERED that the Applicant shall comply with the Maryland Audiologists, Hearing Aid Dispensers and Speech-Language Pathologists Act, Md. Code Ann., Health Occ. §§ 2-101 *et seq.*, and all federal and State laws and regulations governing the practice as a hearing aid dispensing in Maryland; and it is further

ORDERED that this document is a **PUBLIC DOCUMENT** under Md. Code Ann., General Provisions § 4-101, *et seq.*

6/3/19
Date

Jennifer Mertes, Au.D.
Jennifer Mertes, Au.D., Chair
Maryland Board of Examiners for Audiologists,
Hearing Aid Dispensers, and Speech-Language Pathologists

CS 6/5/19

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact and accept and submit to the foregoing Consent Order and its conditions. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.

2/3/19
Date



Shomari M. Smith

NOTARIZATION

STATE: MARYLAND

CITY/COUNTY: BALTIMORE

I HEREBY CERTIFY that on this 31st day of MAY, 2019, before me, a Notary Public of the State and City/County aforesaid, personally appeared **Shomari M. Smith** and made oath in due form of law that signing the foregoing Consent Order of Reprimand was the voluntary act and deed of **Shomari M. Smith**.

AS WITNESSETH my hand and Notarial Seal

SEAL

PATRICIA P. JACKSON
Notary Public
Baltimore County
Maryland
My Commission Expires Aug. 22, 2022

Patricia P. Jackson
PATRICIA P. JACKSON
Notary Public

My Commission Expires: 08/22/2022