01-1059-CD
COMMONWEALTH OF PENNSYLVANIA -vs- MARK E. JONES etal

Clearfield County Court of Common Pleas
ROA Report
Case: 2001-01059-CD
Current Judge: Paul E. Cherry

Civil Other

Date		Judge
07/03/2001	Filing: Complaint and Petition for a Permanent Injunction Paid by: Commonwealth of Pennsylvania (plaintiff) Receipt number: 1827750 Dated: 07/03/2001 Amount: $80.00 (Check) Five CC Attorney Creany	No Judge
	ORDER, AND NOW, this 3rd day of July, 2001, re: Hearing scheduled for 16th day of July, 2001, at 3:00 p.m. by the Court, s/JKR,JR,P.J. 5 cc attu Creany	John K. Reilly Jr.
	Motion for a Preliminary Injunction, filed by s/E. Barry Creany Five CC Attorney Creany	John K. Reilly Jr.
07/12/2001	Entry of Appearance, on behalf of Mark E. Jones , individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. by s/David J. Hopkins, Esq. No CC	John K. Reilly Jr.
07/13/2001	Certificate of Service, Complaint in Equity and Petition for a Permanent Injunction upon defendants, filed by s/Thomas W. Creehan No CC	John K. Reilly Jr.
07/20/2001	Motion For Special Injunction. Filed by s/E. Barry Creany, Esq. 4 cc Attorney General Creany	John K. Reilly Jr.
	ORDER, NOW, this 20th day of July, 2001, re: Motion for Special Injunction filed on behalf of Plaintiffs. by the Court, s/JKR,JR.,P.J. 1 cc atty Creary, Hopkins	John K. Reilly Jr.
07/24/2001	Preliminary Objections to the Complaint and Petition for a Permanent Injunction as to Joseph G. Pannette, Individually and D/B/A J. G. Pannette Marketing Specialists, Inc. Filed by s/David J. Hopkins, Esq. Cert of Svc 1 cc atty Hopkins	John K. Reilly Jr.
	ORDER, NOW, this 24th day of July, 2001, re: Plaintiff's Motion for Special Injunction shall be and remain in full force and effect until further Order of Court. by the Court, s/JKR,JR., P.J. 1 cc atty Creany, Hopkins	John K. Reilly Jr.
07/30/2001	Answer to Complaint and Petition for a Permanent Injunction. Filed by s/David J. Hopkins, Esq. Cert of Svc 2 cc atty Hopkins	John K. Reilly Jr.
	Certificate of Service, Subpoena to Attend and Testify upon Robert Fauls. s/Thomas W. Creehan no cc	John K. Reilly Jr.
	Certificate of Service, Order dated July 20, 2001, upon David J. Hopkins, Esq. s/Janet M. Mulraney no cc	John K. Reilly Jr.
08/02/2001	Amended Complaint and Petition For A Permanent Injunction. Filed by s/E. Barry Creany, Esq. 10 cc to atty	John K. Reilly Jr.
08/10/2001	Certificate of Service, Amended Complaint and Petition for a Permanent Injunction upon Mark E. Jones and Joseph G. Pannettem by mailing same to David J. Hopkins, Esq. s/Janet M. Mulraney no cc	John K. Reilly Jr.
	Certificate of Service, Amended Complaint and Petition for a Permanent Injunction upon Mark E. Jones ind. and d/b/a M. E. Jones Hearing Instruments and Marketing Specialists by delivering to the Defendants' Agent Joellen Pape. s/Thomas W. Creehan, Agent Supervisor no cc	John K. Reilly Jr.
08/28/2001	Preliminary Objections to the Amended Complaint and Petition for a Permanent Injunction. Filed by s/David J. Hopkins, Esq. Cert of Svc 1 cc atty	John K. Reilly Jr.
	Answer to Amended Complaint and Petition for a Permanent Injuction. Filed by s/David J. Hopkins Verification, s/Joseph G. Pannette s/Mark E. Jones Cert. of Svc. s/David J. Hopkins, Esq. 1 cc Atty	John K. Reilly Jr.

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09/06/2001	X Reply to New Matter. Filed by s/E. Barry Creany, Esq. Affidavit, s/Thomas W. Creehan Cert of Svc no cc	John K. Reilly Jr.
09/10/2001	X Answer To Preliminary Objections. Filed by s/David J. Hopkins, Esq. Cert of Svc no cc	John K. Reilly Jr.
09/11/2001	X Answer and New Matter. Filed by s/John R. Ryan, Esq. Verification s/John R. Ryan, Esq. 6 cc Atty Ryan	John K. Reilly Jr.
09/13/2001	X Certificate of Service, Amended Complaint and Petition for a Permanent Injunction upon Robert W. Fauls and Richard L. Kerstetter. Filed by s/Thomas W.Creehan no cc	John K. Reilly Jr.
09/19/2001	X Reply to New Matter. Filed by s/E. Barry Creany, Esq. Affidavit, s/Thomas W. Creehand Cert of Svc. no cc	John K. Reilly Jr.
11/15/2001	X ORDER, NOW, this 15th day of Nov., 2001, re: P.O's filed on behalf of Defendant Marketing Specialists, Inc. by the Court, s/JKR,JR.,P.J. 1 cc Atty Hopkins, Atty Creany	John K. Reilly Jr.
12/14/2001	X Answer to Amended Complaint and Petition for a Permanent Injunction on behalf of Marketing Specialists, Inc., filed by s/David J. Hopkins, Esq. One CC Attorney Hopkins	John K. Reilly Jr.
12/19/2001	X Verification. s/Robert W. Fauls, s/Richard L. Kerstetter, and s/Ricky A. Pape 3 cc to Atty	John K. Reilly Jr.
12/21/2001	X Reply to New Matter. Filed by s/E. Barry Creany, Esq. Affidavit s/Thomas W. Creehan no cc	John K. Reilly Jr.
	X Certificate of Service, Reply to New Matter upon David J. Hopkins, Esq. and John R. Ryan, Esq. Filed by s/E. Barry Creany, Esq. no cc	John K. Reilly Jr.
01/08/2002	X Motion to Compel Discovery. Filed by s/David J. Hopkins, Esq. no cc	John K. Reilly Jr.
01/15/2002	X ORDER, AND NOW, this 14th day of Jan. 2002, re: Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. answer Plaintiff's First Set of Interrogatories and Requests for Production of Documents within 20 days of this Order or suffer sanctions of this Court. by the Court, s/JKR,JR.,P.J. 2 cc Atty Creany	John K. Reilly Jr.
02/08/2002	X Certificate of Service, Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Mark Jones upon E. Barry Creany. Filed by s/David J. Hopkins, Esq. no cc	John K. Reilly Jr.
	X Certificate of Service, Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette upon E. Barry Creany. s/David J. Hopkins, Esq. no cc	John K. Reilly Jr.
	X Certificate of Service, Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents tp Defendant Joseph G. Pannette upon E. Barry Creany, Esq. s/David J. Hopkins, Esq. no cc	John K. Reilly Jr.
03/07/2002	X Motion for Sanctions. Filed by s/ E. Barry Creany, Esq. Cert of Svc no cc	John K. Reilly Jr.
03/08/2002	X ORDER, this 8th day of March, 2002, re: Hearing on Plaintiff's Motion for Sanctions scheduled for APril 25, 2002, at 10:00 a.m. by the Court, s/JKR,JR.,P.J. 2 cc Dep. Atty. General	John K. Reilly Jr.
04/26/2002	X ORDER, NOW, this 25th day of April, 2002, re: Motion for Sanctions. by the Court, s/JKR,JR.,P.J. 1 cc Atty Hopkins, E. Barry Creany	John K. Reilly Jr.
10/28/2003	X Praecipe for Entry of Appearance on behalf of Plaintiff filed by Atty. Frank T. Donaghue, Chief Deputy attorney General. No CC.	John K. Reilly Jr.

Civil Other

Date		Judge
11/24/2003	Petition For Contempt. filed by, s/E. Barry Creany, Esq., Senior Deputy A.G. no cc	John K. Reilly Jr.
11/26/2003	ORDER, AND NOW, this 26th day of November, 2003, a Hearing on the Commonwealth's Petition for Contempt is hereby scheduled for December 30, 2003 in Courtroom No. 1 at 2:00 p.m. by the Court, s/JKR,JR, P.J. 1 cc ti Attt Cerany	John K. Reilly Jr.
12/04/2003	Certificate of Service, Petition for Contempt upon: JOHN R. RYAN, ESQUIRE and DAVID J. HOPKINS, ESQUIRE. s/E. Barry Creany, Esq., Senior Deputy Attorney General	John K. Reilly Jr.
	Certificate of Service, Order scheduling a Hearing on the Commonwealth's Petition for Contempt upon: JOHN R. RYAN, ESQUIRE and DAVID J. HOPKINS, ESQUIRE filed by, s/E. Barry Creany, Esq.	John K. Reilly Jr.
12/17/2003	ORDER: AND NOW, this 17th day of December, 2003, it is the ORDER of the Court that argument on Plaintiffs' Petition for Contempt in the above matter has been rescheduled from Dec. 30, 2003 to Jan. 8, 2004 at 2:30 PM before Judge Cherry in Courtroom 2. s/JKR 1 CC to Atty. Donaghue. 1 CC Atty. Hopkins.	Paul E. Cherry
12/19/2003	Motion For Partial Summary Judgment By Plaintiff Commonwealth Of Pennsylvania. filed by, s/E. Barry Creany, Esq., Senior Deputy Attorney General Verification s/E. Barry Creany Certificate of Service no cc	Paul E. Cherry
12/30/2003	Entry Of Appearance On Behalf Of MARK E. JONES, INDIVIDUALLY and d/b/a M. E. JONES HEARING INSTRUMENTS. filed by, s/Jeffrey S. DuBois, Esquire 3 cc to Atty DuBois Copy to C/A	Paul E. Cherry
	Motion For Continuance. filed by, s/Jeffrey S. DuBois, Esquire 3 cc Atty DuBois	Paul E. Cherry
12/31/2003	Answer To Petition For Contempt. filed by, s/David J. Hopkins, Esquire Verification s/Mark E. Jones s/Joseph G. Pannette Certificate of Service 3 cc Atty Hopkins	Paul E. Cherry
01/06/2004	Praecipe For Withdrawal Of Appearance On Behalf Of MARK E. JONES, DEFENDANT. filed by s/David J. Hopkins, Esquire Certificate of Service 1 cc Atty Hopkins Copy to C/A	Paul E. Cherry
01/07/2004	ORDER, AND NOW, this 6th day of January, 2004, re: Hearing on Plaintiff's Contempt Petition scheduled for January 8, 2004, be and is hereby CANCELLED. Said Hearing is rescheduled forTuesday, February 3, 2004, at 11:30 a.m. It is the further Order of this Court that Argument on Plaintiff's Motion for Partial Summary Judgment is scheduled for Tuesday, February 3, 2004, at 1:30 P.M. Both Hearings will be held in Courtroom #2. by the Court, s/PEC,J. 1 cc Atty Creary, DuBois, and Ryan	Paul E. Cherry
01/14/2004	ORDER, AND NOW, this 13th day of January, 2004, re: Argument on Plaintiff's Motion For Partial Summary Judgment is rescheduled for Tuesday, Feb. 3, 2004 at 11:30 a.m. Argument on Plaintiff's Contempt Petition is scheduled for Tuesday, Feb. 3, 2004 at 1:30 p.m. Both Hearings will be held in Courtroom No. 2. by the Court, s/PEC,J. 1 cc Attys: Creary, DuBois, Hopkins, Ryan and Donghue	Paul E. Cherry
01/29/2004	Defendant, Mark E. Jones, Response To Plaintiff's Motion For Partial Summary Judgment. filed by, s/Jeffrey S. DuBois, Esquire Certificate of Service 3 cc Atty DuBois	Paul E. Cherry

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Date		Judge
01/29/2004	Answer To Petition for Contempt. filed by, s/Jeffrey S. DuBois, Esquire Verification s/Mark E. Jones Certificate of Service 3 cc Atty DuBois	Paul E. Cherry
01/30/2004	Amended Answer to Amended Complaint and Petition For A Permanent Injunction On Behalf Of Joseph G. Pannette, Individually and d/b/a J. G. Pannette Marketing Specalists, Inc. and Marketing Specialists, Inc. filed by, s/David J. Hopkins, Esq. Certificate of Service no cc	Paul E. Cherry
	Answer To Motion For Partial Summary Judgment By Plaintiff, Commonwealth of Pennsylvania. filed by, s/David J. Hopkins, Esq. Affidavit s/Joseph G. Pannette Certificate of Service no cc	Paul E. Cherry
02/04/2004	ORDER, AND NOW, this 4th day of February, 2004, re: Defendant's Petition for Contempt is hereby CONTINUED until Thursday, May 6, 2004, at 9:00 a.m., in Courtroom No. 2. by the Court, s/PEC,J. cc to Atty DuBois, Hopkins, Dr. Ryan, Atty Creany and Donaghue	Paul E. Cherry
02/05/2004	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. s/E. Barry Creany, Esq. no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgement. s/E. Barry Creany, Esq. no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. s/E. Barry Creany, Esq. no cc	Paul E. Cherry
	Affidavit In Support Plaitniff's Motion For Partial Summary Judgment. s/Thomas W. Creehan no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. filed by, s/Thomas W. Creehan no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motin For Partial Summary Judgment. s/Thomas W. Creehan no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. filed by, s/E. Barry Creany, Esq. n o cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. filed by, s/E. Barry Creany no cc	Paul E. Cherry
	Affidavit In Support Plaintiff's Motion For Partial Summary Judgment. filed by, s/E. Barry Creany, Esq. no cc	Paul E. Cherry
	Transcript of Deposition of Joseph G. Pannette. filed.	Paul E. Cherry
	Transcript of Deposition of Mark E. Jones. filed.	Paul E. Cherry
	ORDER, NOW, this 3rd day of February, 2004, re; Plaintiff's Motion for Partial Summary Judgment. by the Court, s/PEC,J. 2 cc Attys Creany, Donahue, DuBois, Hopkins and Ryan	Paul E. Cherry
02/23/2004	Statement Regarding Substitution Of Seccessor Pursuant to Pennsylvania Rule Of Civil Procedure 2352(a). filed by, s/E. Barry Creany, Esquire Verification s/E. Barry Creany, Esquire Certificate of Service no cc Copy to C/A	Paul E. Cherry
	Reply To New Matter In Amended Answer of Defendant Joseph G. Pannette, Individually and d/b/a J.G. Pannette Marketing Specialits, Inc. and Marketing Specialists, Inc. filed by, s/E. Barry Creany, Esq. Certificate of Service no cc	Paul E. Cherry
04/21/2004	ORDER, AND NOW, this 21st day of April, 2004, re: Plaintiff's Motion for Partial Summary Judgment is hereby DENIED. by the Court, s/PEC, J. 1 cc Attys Donaghue, Creany, DuBois, Hopkins, and Ryan	Paul E. Cherry

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Civil Other

Date		Judge
05/11/2004	ORDER, AND NOW, this 6th day of May, 2004, re: Continuation Hearing with regard to Plaitniff's Petition for Contempt is hereby scheduled for Tuesday, July 27, 2004, at 9:00 a.m., in Courtroom No. 2. by the Court, s/PEC, J. cc to Atty's Hopkins, DuBois, Ryan, and Creany	Paul E. Cherry
06/17/2004	Amended Petition for Contempt, filed by s/E. Barry Creany, Senior Deputy Attorney General No CC	Paul E. Cherry
	Certificate of Service, Amended Petition for Contempt upon Jeffrey S. DuBois, Esq., John R. Ryan, Esq., and David J. Hopkins, Esq., filed by s/E. Barry Creany, Senior Deputy Attorney General No CC	Paul E. Cherry
06/21/2004	Order AND NOW, this 18th day of June, 2004, it is the ORDER of the Court that hearing on Plaintiffs' Amended Petition for Contempt in the above matter has been scheduled for July 27,2004 at 9AM. S/PEC 5 CC w/service memo to Atty. Creany	Paul E. Cherry
06/29/2004	Certificate of Service, Certified Copy of the Order of Honorable Paul E. Cherry, Judge dated June 18, 2004, served upon Jeffrey S. DuBois, Esq., John R. Ryan, Esq., and David J. Hopkins, Esq., filed by s/E. Barry Creany No CC	Paul E. Cherry
07/29/2004	Order, AND NOW, this 29th day of July, 2004, Order that continuation hearing with regard to Plaintiff's Petition for Contempt is hereby scheduled for September 17, 2004, at 9:00 a.m. in Courtroom No. 2. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attys: Creany, Donaghue, DuBois, Hopkins, Ryan	Paul E. Cherry
09/27/2004	Order, NOW, this 17th day of September, 2004, all testimony having been presented to the Court, it is the ORDER of this Court that counsel shall, if they so desire, order transcripts of all proceedings with said order to be made with the appropriate court reporter by no later than October 1, 2004. Counsel shall have no more than 30 days upon receipt of said transcripts to submit appropriate brief to the Court. The parties may, if they so desire, file a reply brief to opposing counsel's briefs within no more than 15 days thereafter. BY THE COURT: /s/ Paul E. Cherry, Judge. 2 CC Attys: Creany, Donaghue, Dubois, Hopkins, Ryan.	Paul E. Cherry
10/20/2004	Transcript of Proceedings of Plaintiff's Petition for Contempt, Day III, filed by Cathy Warrick Provost, RMR	Paul E. Cherry
11/02/2004	Petition to Withdraw as Counsel, filed by s/David J. Hopkins, Esq. Six CC to Attorney Hopkins	Paul E. Cherry
11/04/2004	Rule Returnable: NOW, this 3rd day of November, 2004, upon consideration of the attached Petition, a Rule is hereby issued upon Defendants, Joseph G. Pannette, J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., to Show Cause why the Petition to Withdraw as Counsel should not be granted. Rule Returnable the 23rd of Nov. 2004, for filing written response. BY THE COURT, /s/ Paul E. Cherry, Judge. 2 CC to Atty.	Paul E. Cherry
11/12/2004	Reply to Petition to Withdraw as Counsel, requesting that the Court deny Petition to Withdraw as Counsel filed by David J. Hopkins. Filed by s/ E. Barry Creany, Senior Deputy Attorney General. No CC	Paul E. Cherry

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Date		Judge
12/09/2004	X Order, AND NOW this 7th day of December, 2004, a hearing on the Petition of David J. Hopkins, Esquire, to withdraw as attorney for Joseph G. Pannette, J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., shall be held in Courtroom 2 of the Clfd. Co. Courthouse on Jan. 3, 2005 at 10:00 a.m. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC to Atty Hopkins	Paul E. Cherry
01/05/2005	X ORDER, filed. 1 cert. to Atty. Hopkins Now, this 4th day of January, 2005, Hearing rescheduled for March 4, 2005	Paul E. Cherry
01/10/2005	X Certificate of Service, copy of Order dated Jan. 4, 2005 rescheduling hearing, served upon E. Barrry Creany, Deputy Attorney General, and Jeffrey S. DuBois, Esquire. Filed by s/ David J. Hopkins, Esquire. No CC	Paul E. Cherry
01/12/2005	Transcript of Proceedings, filed. In open Court on Fri. Sept. 17, 2004 at 9:02 a.m. before The Honorable Paul E. Cherry, Judge.	Paul E. Cherry
	Transcript of Proceedings, filed, Plaintiff's Petition for Contempt, Day II of IV, held before the Honorable Paul E. Cherry, Judge on Thursday, May 6, 2004.	Paul E. Cherry
01/28/2005	X Statement Regarding Substitiution of Successor Pursuant to PARule of Civil Procedure filed by Plff.	Paul E. Cherry
02/23/2005	Transcript of Proceedings, Argument of Plaintiff's Petition for Contempt, held February 3, 2004, filed.	Paul E. Cherry
02/25/2005	X Petition For Cease and Desist Order, filed by Atty. DuBois 3 Cert. to Atty.	Paul E. Cherry
	X Motion For Extension of Time to File Brief, filed by Atty. Hopkins, no cert. copies.	Paul E. Cherry
02/28/2005	X ORDER, filed. NOW, this 25th day of Feb., 2005, in consideration ot Def. Petition For Cease and Desist Order, it is ORDERED that Hearing be scheduled for the 12th day of April, 2005 at 1:30 p.m. in Courtroom No. 2. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC to Atty.	Paul E. Cherry
	X Order, AND NOW, this matter having come before the Court , it is on this 25th day of Feb. 2005, ORDERED that Briefs shall be due on or before April 30, 2005. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC to Atty.	Paul E. Cherry
03/02/2005	X Reply To Motion For Extension of Time to File Brief, filed by s/ E. Barry Creany, Senior Deputy Attorney General. No CC	Paul E. Cherry
03/04/2005	X Order, NOW, this 4th day of March, 2005, this being the date set for hearing on Petition to Withdraw as Counsel , it is the ORDER of this Court that David J. Hopkins, Esquire, be and is hereby permitted to withdraw as counsel for Def. Joseph Pannette, individually and d/b/a/ J. G. Pannette Marketing Specialists, and Marketing Specialists, Inc. David Hopkins will file Precipe to withdraw. Further Ordered that all Parties will file appropriate briefs on or before April 30, 2005. No Further extension of time. BY THE COURT, /s/ Paul E. Cherry, Judge. 2CC Attys: B. Creany, F. Donaghue, J. DuBois, D. Hopkins, and J. Ryan	Paul E. Cherry
03/07/2005	X Certificate of Service, copy of Order to E. Barry Creany, Esquire, Jeffrey S. DuBois, Esquire, John R. Ryan, Esquire, Joseph G. Pannette, Marketing Specialists, Inc., J.g. Pannette Marketing Specialists, Inc., on the 6th of Jan., 2005. Filed by s/ David J. Hopkins, Esquire. No cC	Paul E. Cherry

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03/09/2005	Withdrawal of Appearance, for Def. Joseph G. Pannette, Withdraw appearance of David J. Hopkins, Esquire. No CC, copy to C/A	Paul E. Cherry
05/06/2005	Certificate of Service, Copies of the foregoing Brief in Support of the Commonwealth's Amended Petition for Contempt was forwarded on the 29th day of April, 2005 to Jeffrey S. DuBois, Esq., John R. Ryan, Esq. and Joseph G. Pannette, Pro Se. Filed By E. Barry Creany Senior Deputy Atty. General. No CC	Paul E. Cherry
09/02/2005	Opinion and Order: (see original). By the Court, /s/ Paul E. Cherry, Judge. 1CC Attys: Creany, DuBois, Hopkins, Ryan, D. Mikesell, Law Library, J. Pannette, J.F. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc.	Paul E. Cherry
09/09/2005	Request For Reconsideration, filed by s/ Jeffrey S. DuBois, Esquire. 3CC atty DuBois	Paul E. Cherry
09/12/2005	Filing: Praecipe for Entry of Judgment Per Court Order Paid by: Creany, E. Barry (attorney for Commonwealth of Pennsylvania) Receipt number: 1908227 Dated: 09/12/2005 Amount: $20.00 (Check) Judgment is entered in favor of the Plaintiff and against Defendants Mark E. Jones, indiv. and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette indiv. and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. in the total amount of $220,830.00. Filed by s/E. Barry Creany No CC Notice to Atty DuBois and Pannette Defendants (101 N. Main St., DuBois, PA 15801) Statement to Attorney	Paul E. Cherry
	Order, AND NOW, this 12th day of September, 2005, Court noting that Defendants, Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape did not appear nor did they participate in the hearings conducted relative to the Commonwealth's Petition and Amended Petition for Contempt, Order that the relief set forth in this Court's Opinion and Orders of September 1, 2005, shall be and is hereby Amended to pertain only to the Defendants Mark E. Jones, indiv. and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, indiv. and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. BY THE COURT: /s/Paul E. Cherry, Judge One CC Attys: Creany, Ryan, DuBois, Pannette (101 N. Main St., DuBois, PA 15801)	Paul E. Cherry
09/13/2005	Order, AND NOW, this 12th day of September, 2005, in consideration of Defendant Mark E. Jones Motion for Reconsideration. It is hereby Ordered and decreed that a Hearing be scheduled for the 10th day of October, 2005, at 3:00 p.m. in Courtroom No. 2. BY THE COURT: /s/Paul E. Cherry, Judge Three CC Atty DuBois	Paul E. Cherry
09/14/2005	Praecipe to Strike the Judgment, Re: Judgment entered September 12, 2005 as it pertains to Defendant Mark E. Jones, filed by s/Jeffrey S. DuBois, Esq. Three CC Atty DuBois	Paul E. Cherry
09/20/2005	Motion For Continuance, filed by s/E. Barry Creany, Senior Deputy Attorney General, No CC	Paul E. Cherry
	Order, NOW, this 20th day of Sept., 2005, upon consideration of the Motion for Continuance filed by the Commonwealth of PA, Ordered that hearing previously scheduled for October 10, 2005, on Mark E. Jones' Request for Reconsideration is continued and a hearing shall be conducted on the 26th day of October, 2005 at 11:00 a.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 6 CC Atty Creany	Paul E. Cherry

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09/27/2005	Certificate of Service, filed. A certified, true and attested copy of the Order scheduling a hearing on the Request for Reconsideration was served upon Jeffey S. DuBois Esq., Marketing Specialists Inc., Mr. Joseph G. Pannette, John R. Ryan Esq, on September 26, 2005, filed by s/ E. Barry Creany. No CC.	Paul E. Cherry
	Preliminary Objections, filed by s/ Jeffrey S. DuBois, Esquire. No CC	Paul E. Cherry
09/29/2005	Order, NOW, this 28th day of Sept., 2005, upon consideration of Preliminary Objections filed by Commonwealth of Pa., Ordered that argument on Preliminary Objections are scheduled for the 26th day of October, 2005 at 11:00 a.m. in Courtroom No. 2. By The Court, /s/ Paul E. Cherry, Judge. 4CC atty. Creany	Paul E. Cherry
10/06/2005	Certificate of Service, copy of Order of Court dated Sept. 28, 2005, was served upon Jeffrey S. DuBois, Esquire. Filed by s/ E. Barry Creany. No CC	Paul E. Cherry
10/10/2005	Temporary Order, AND NOW, this 10th day of October, 2005, following Status Conference with E. Barry Creany, Esquire, it is the TEMPORARY ORDER of this Court that Mark E. Jones shall be and is hereby permitted to resume business as a Hearing Aid Fitter until October 26, 2005. BY THE COURT: /s/ Paul E. Cherry, Judge. 1CC attys: Creany, DuBois, Ryan and 1CC deft-Pannette at 101 N. Main St. DuBois, PA 15801	Paul E. Cherry
10/19/2005	Defendant Mark E. Jones Response to Plaintiffs Preliminary Objections filed by s/ Jeffrey S. DuBois Esq. 3CC Atty DuBois.	Paul E. Cherry
10/26/2005	Order NOW, this 26th day of October, Defendant Mark E. Jones and the Plaintiff Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett Jr., have appeared through counsel and advised the Court that they have entered into an argreement providing for satisfaction of the monetary judgment that was ordered dated September 1, 2005. Based upon the agreement of the parties for satisfaction on the monetary judgment entered against Defendant Mark E. Jones and agreement for resolution of this action as to Defendant Mark E. Jones, this Court's Injunctive Orders of July 24, 2001 and September 1, 2005 are rescinded as to Defendant Mark E. Jones. Defendant Mark E. Jones may engage in further trade and commerce within the Commonwealth of Pennsylvania subject to the following injunctive provisions: (see orginial) and Defendant Mark E. Jones is hereby released from this case, without prejudice. BY THE COURT: /s/ Paul E. Cherry, Judge. 10CC Atty DuBois, will serve.	Paul E. Cherry
10/28/2005	Order NOW, this 26th day of October, 2005, this being the date set for hearing on Motion for Reconsideration filed on behalf of Mark E. Jones; the Court being advised by Jeffrey S. DuBois, Esquire, of his desire to withdraw said Motion, it is the ORDER of this Court that said Motion be and is hereby withdraw. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Attys: E. Barry Creany, F. Donagjhue, J. DuBois, J. Ryan and 2CC deft-Pannette-101 N. Main Street, DuBois, PA 15801	Paul E. Cherry
	Order NOW, this 26th day of October, 2005, this being the date set for hearing on Preliminary Objections filed on behalf of the Commonwealth of Pennsylvania; the Court being advised by E. Barry Creany Esquire, of this desire to withdraw said Objections, it is the ORDER of this Court that said Preliminary Objections be and are hereby withdraw. BY THE COURT: /s/ Paul E. Cherry, Judge. 2CC Attys: E. Barry Creany, F. Donaghue, J. DuBois, J. Ryan and 2CC Deft-101 N. Main Street, DuBois, PA 15801	Paul E. Cherry

Civil Other

Date		Judge
11/23/2005	Filing: Satisfaction entered against MARK E. JONES, individually, ONLY. Further mark the action as resolved and discontinued without prejudice as to Defendant Mark E. Jones, ONLY. filed by Atty. Creany. no cert. copies. Paid by: Mulraney, Janet Receipt number: 1911408 Dated: 11/23/2005 Amount: $7.00 (Check)	Paul E. Cherry
01/18/2006	Motion To Compel, filed by s/ E. Barry Creany, Senior Deputy Attorney General. No CC	Paul E. Cherry
01/19/2006	Order AND NOW, this 18th day of January, 2006, the Commonwealth's Motion to Compel discovery is hereby granted and IT IS HEREBY ORDERED AND DECREED that Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., shall provide full and complete answers and responses to the Plaintiff's Interrogatories and Request for Production of Documents in Aid of Execution before February 1, 2006, or said Defendant shall be deemed to be in contempt of this Order and, upon motion of the Commonwealth, shall be subject to sanctions pursuant to PA.R.C.P. NO. 419. BY THE COURT: /s/ Paul E. Cherry, Judge. 4CC Atty Creany.	Paul E. Cherry
01/27/2006	Certificate of Service, filed. That a ture and attested copy of the Order of The Honorable Paul E. Cherry dated January 18, 2006, granting the Commonwealth's motion to compel discovery and Defendant, Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists Inc., to provide full and complete answers and responses to Plaintiff Interrogatories was served on January 25, 2006 to Marketing Specialists Inc. and Mr. Joseph G. Pannette, filed by s/ E. Barry Creany Esq. No CC.	Paul E. Cherry
02/08/2006	Motion to Reissue Order Compelling Discovery, filed no cert. copies.	Paul E. Cherry
02/13/2006	Order, NOW, this 9th day of Feb., 2006, the Commonwealth's Motion to Reissue Order Compelling Discovery is hereby granted and it is Ordered (see original). by the Court /s/ Paul E. Cherry, Judge. 2CC Creany, 1CC Attys. Donaghue, DuBois, Ryan. 1CC Joseph Pannette	Paul E. Cherry
02/24/2006	Motion For Sanctions, filed by s/ E. Barry Creany, Senior Deputy Attorney General No CC	Paul E. Cherry
02/27/2006	Petition For Leave to Withdraw As Counsel, filed by s/ John R. Ryan, Esquire. 3CC Atty. Ryan	Paul E. Cherry
	Stipulation, NOW THIS 16th day of January , 2006, upon stipulation of RICKY A PAPE and his counsel, JOHN R RYAN, it is hereby agareed that JOHN R. RYAN is permitted to withdraw as counsel for RICKY A. PAPE, filed by s/ John R. Ryan Esq., and s/ Ricky A. Pape. 2CC Atty Ryan and copy to C/A.	Paul E. Cherry
	Praecipe for Withdrawal of Appearance, filed. Pursuant to the Stipulation dated January 16, 2006, please withdraw my appearance as counsel for RICKY A. PAPE, defendant in the above-captioned matter, filed by s/ John R. Ryan Esq. 2CC atty Ryan and copy to C/A.	Paul E. Cherry
02/28/2006	Certificate of Service, filed. Served certified copies of Stipulation and Praecipe for Withdrawal of Appearance on behalf of Defendant Ricky A. Pape in the above captioned matter on the 27th day of February to Ricky A. Pape, and E. Barry Creany Esq., filed by s/ John R. Ryan Esq. No CC.	Paul E. Cherry

Clearfield County Court of Common Pleas
ROA Report
Case: 2001-01059-CD
Current Judge: Paul E. Cherry

Civil Other

Date		Judge
03/01/2006	Rule AND NOW, this 27th day of February, 2006, upon consideration of the foregoing Petition for Leave to Withdraw as Counsel, a Rule is hereby issued upon the Respondent, Richard L. Kerstetter, to show cause why the relief requested therein should not be granted. Rule returneable the 28th day of March, 2006, for filing a written response. Failure on the part of the Responsent objecting to the withdrawal of Petitioner as counsel by the date set forth above will result in the issuance of an Order granted the relief requested therein. BY THE COURT: /s/ Paul E. Cherry, Judge. 3CC Atty Ryan.	Paul E. Cherry
03/02/2006	Certificate of Service, filed. Served a certified copy of Petition to Withdraw as Counsel for Defendant Richard L. Kerstetter and Rule on the following parties on the 2nd day of March, 2006 to Richard L. Kerstetter and E. Barry Creany Esq., filed by s/ John R. Ryan Esq. No CC.	Paul E. Cherry
03/08/2006	Order, NOW, this 3rd day of March, 2006, Ordered that argument on plaintiff's Motion for Sanctions has been scheduled for Friday, March 31, 2006 at 10:00 a.m. in Courtroom No. 2. 1/2 hour has been allotted for this matter. By The Court, /s/ Paul E. Cherry, Judge. 4CC Atty. Creany	Paul E. Cherry

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01- 1059-C.D. : COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION

FILED

JUL 03 2001

William A. Shaw
Prothonotary

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01- -C.D. : COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

KEYSTONE LEGAL SERVICES, INC.
211 ½ EAST LOCUST STREET
CLEARFIELD, PA 16830
(814) 765-9646

Office of Attorney General

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01- -C.D.

COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION

AND NOW, this 3rd day of July, 2001, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and brings this action on behalf of Plaintiff Commonwealth of Pennsylvania (hereinafter "Commonwealth") pursuant to the Unfair Trade Practices and Consumer Protection Law, Act of December 17, 1968, P.L. 1224, No. 387, as amended and reenacted by the Act of November 24, 1976, P.L. 1166, No. 260, and the Act of December 3, 1996, P.L. 906, No. 146, 73 P.S. §201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law") which authorizes the Attorney General to bring an action in the name of the Commonwealth of Pennsylvania to restrain, by temporary and/or permanent injunction, unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce declared unlawful by §201-3 of the Consumer Protection Law. In support of this action the Commonwealth respectfully represents the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 42 Pa. C.S.A. §931(a).
2. Venue in this judicial district is proper under 42 Pa.C.S.A. §931(c) and Pa.R.C.P. No. 1503.

THE PARTIES

3. Plaintiff is the Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection, Ebensburg Regional Office, 171 Lovell Avenue, Suite 202, Ebensburg, Cambria County, Pennsylvania 15931.

4. Defendant Mark E. Jones is an adult individual and resident of the Commonwealth of Pennsylvania who does business as M.E. Jones Hearing Instruments and maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

5. Defendant Joseph G. Pannette is an adult individual and resident of the Commonwealth of Pennsylvania who does business as J.G. Pannette Marketing Specialists, Inc. and maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

6. Unless otherwise specified, whenever reference is made in this action to any act of the defendants, such allegations shall be deemed to mean the act of each defendant, acting individually, jointly or severally.

7. Plaintiff has reason to believe that defendants used or are about to use methods, acts or practices declared unlawful by §201-3 of the Consumer Protection Law and which have resulted in or are about to result in harm to consumers.

8. At all times material hereto the unlawful methods, acts, practices or omissions complained of have been willfully used by the defendants, and the defendants have acted in concert or participated in the commission or omission of the same.

9. Plaintiff believes that the public interest is served by seeking before this Court a permanent injunction to restrain the methods, acts and practices described herein.

FACTUAL BACKGROUND

10. Defendant Jones is a hearing aid fitter and a dealer conducting business under the name M.E. Jones Hearing Instruments and has been issued a certificate of registration

from the Commonwealth of Pennsylvania, Department of Health, certificate no. F02405.

11. Defendant Pannette is a hearing aid fitter and has been issued a certificate of registration from the Commonwealth of Pennsylvania, Department of Health, certificate no. F02186. In addition, defendant Pannette doing business as J.G. Pannette Marketing Specialists, Inc. manages the office of M.E. Jones Hearing Instruments and is vested with authority to make day-to-day decisions for said business.

12. M.E. Jones Hearing Instruments has been issued certificates of registration for thirty-nine (39) branch offices from the Commonwealth of Pennsylvania, Department of Health, certificate nos. F02405-1 through F02405-39. Defendants' branch office locations for which they have received certificates of registration are identified on the list which has been attached hereto and labeled Exhibit No. 1.

13. In addition to defendants Jones and Pannette the defendants employ six (6) hearing aid fitters (hereinafter "hearing aid sales staff") who have received certificates of registration from the Commonwealth of Pennsylvania, Department of Health. The names of these six (6) individuals employed by the defendants as hearing aid fitters are attached hereto and labeled Exhibit No. 2.

14. Defendants, directly or through the hearing aid sales staff, conduct appointments with Pennsylvania consumers for the purpose of conducting hearing aid tests which often lead to the defendants' offer to sell hearing aid devices to said consumers.

15. A substantial portion of those consumers who the defendants deal with are sixty (60) years of age or older.

16. In connection with their sale of hearing aids to consumers defendants use several sales documents including, but not limited to a sales contract/receipt and a notice of cancellation form. A true and correct copy of defendants' sales contract/receipt is attached hereto and labeled Exhibit No. 3; and, a true and correct copy of defendants' Notice of Cancellation form is attached hereto and labeled Exhibit No. 4.

17. In addition to the documents referred to in paragraph 16 above since April 2000, defendants have been using a disclosure agreement form in connection with their sale of hearing aids to consumers. A true and correct copy of defendants' Disclosure Agreement form is attached hereto and labeled Exhibit No. 5.

18. In the event consumers agree to purchase hearing aids from the defendants the hearing aids delivered to the consumers are manufactured by Marketing Specialists, Inc. which does business from 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

19. Marketing Specialists, Inc. is a Pennsylvania corporation which is owned and operated by defendant Pannette.

20. At times relevant to this complaint the defendants were the sole distributors of the hearing aid instruments manufactured by Marketing Specialists, Inc.

21. Marketing Specialists, Inc. had established suggested retail prices for the hearing aids it manufactures and sells through the defendants. A true and correct copy of the Marketing Specialists, Inc. price list is attached hereto and labeled Exhibit No. 6.

COUNT I - 30-DAY RETURN VIOLATIONS

22. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

23. Effective February 20, 1999, the Hearing Aid Sales Registration Law (35 P.S. §6700-101, *et seq.*, hereinafter referred to as the "Hearing Aid Law") was amended adding new §504.1 governing the return of the hearing aid that requires sellers to provide purchasers with a 30-day money-back written guarantee. 35 P.S. §6700-504.1.

24. Effective February 20, 1999, the Hearing Aid Law was amended to add §503.1 which required sellers to provide purchasers with a disclosure agreement which would include, but not be limited to an itemization and disclosure of any and all fees associated with the fitting procedure or process and the sale and delivery of a hearing aid or similar device, including any cancellation fees authorized pursuant to the

Hearing Aid Law. 35 P.S. §6700-503.1.

25. For a period of more than a year continuing up to at least April 2000, the defendants failed to provide purchasers of hearing aids with disclosure agreements in violation of §503.1 of the Hearing Aid Law.

26. Plaintiff is informed, believes and therefore avers that numerous consumers who purchased hearing aids from the defendants between February 20, 1999, and into April 2000 did not receive the required disclosure agreement apprising them of their right to return hearing aids within thirty (30) days pursuant to a money back written guarantee or an itemization of fees including any cancellation fees authorized pursuant to the Hearing Aid Law. The identities of all such consumers is known to the defendants.

27. An example of one such consumer who did not receive a disclosure agreement or a notice of his right to return a hearing aid is Charles E. Lewis of Clearfield, Pennsylvania. A true and correct copy of Mr. Lewis' complaint filed with the Attorney General's Bureau of Consumer Protection is attached hereto and labeled Exhibit No. 7.

28. Plaintiff is informed, believes and therefore avers that there are several consumers who attempted to exercise their right to return the hearing aids within thirty (30) days after their purchase from the defendants who did not receive refunds in accordance with the provisions of the Hearing Aid Law. The identities of any such consumers and the amounts not refunded in accordance with the Hearing Aid Law are known to the defendants.

29. Plaintiff is informed, believes and therefore avers that the defendants, or their hearing aid sales staff, have at times changed the terms of their return policy to extend the period within which defendants are required to pay the consumer a refund to sixty (60) days or more after the consumer's return of the hearing aid in violation of §504.1(a) of the Hearing Aid Law.

30. An example of defendants' changing their refund payment term in violation of

§504.1 of the Hearing Aid Law occurred in defendants' transactions with John Ammerman of Curwensville, Pennsylvania, and Paul Dornisch of St. Marys, Pennsylvania. True and correct copies of defendants' disclosure statements wherein the refund payment term was changed from thirty (30) days to sixty (60) days in the Ammerman transaction and from thirty (30) days to ninety (90) days in the Dornisch transaction are attached hereto and labeled Group Exhibit No. 8.

31. Defendants' failure to provide consumers with disclosure agreements prior to the provision of any service or sale of any hearing aids violates §503.1 of the Hearing Aid Law. 35 P.S. §6700-503.1.

32. Defendants' failure to provide refunds to consumers within thirty (30) days of the consumers' return of the hearing aids violates §504.1(a) of the Hearing Aid Law. 35 P.S. §6700-504.1(a).

33. Defendants' extending the time period within which they provide refunds to consumers following their return of hearing aids violates §504.1(a) of the Hearing Aid Law. 35 P.S. §6700-504.1.

34. The acts, practices and methods of competition set forth above are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of trade and commerce as defined by the Consumer Protection Law including, but not limited to, §201-2(4)(ii), (v), (vii) and (xxi).

35. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT II - CANCELLATION FEE OVERCHARGES

36. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

37. Defendants have engaged in the practice of charging consumers cancellation fees for

the return of hearing aids in amounts that exceed the lesser of ten percent (10%) of the purchase price of the hearing aid or $150.00 in violation of §504.1(c) of the Hearing Aid Law. 35 P.S. §6700-504.1(c).

38. More specifically, in many transactions defendants have charged consumers a flat cancellation fee of ten percent (10%) of the price of the hearing aid as itemized on defendants' sales contract/receipt which exceeded $150.00. The identities of all such consumer transactions are known to the defendants.

39. An example of defendants' practice of cancellation fee overcharges in violation of §504.1(c) of the Hearing Aid Law is the transaction with Matt Missey of Newcastle, Pennsylvania, which occurred on November 13, 2000, in which Mr. Missey was charged a cancellation fee of $250.00 per hearing aid. A true and correct copy of Mr. Missey's sales contract/receipt is attached hereto and labeled Exhibit No. 9.

40. Defendants' practice of charging consumers cancellation fees in excess of ten percent (10%) of the purchase price of the hearing aid or $150.00 is a violation of §501.4.1(c) of the Hearing Aid Law. 35 P.S. §6700-504.1(c).

41. The acts, practices and methods of competition set forth above are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of trade and commerce as defined by the Consumer Protection Law including, but not limited to, §201-2(4)(ii), (v), (vii) and (xxi).

42. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT III - CANCELLATION FEE PACKING

43. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

44. Defendants routinely sell hearing aids to consumers at the suggested retail prices

established by Marketing Specialists, Inc. less any discounts pursuant to a promotion or credits offered for hearing aids traded in.

45. Defendants' hearing aid contracts/receipts list the suggested retail price of the hearing aid sold as its "Full Hearing Aid Price".

46. An example of a transaction in which the "Full Hearing Aid Price" listed on the consumer's contract/receipt was the suggested retail price of the hearing aid is the defendants' transaction with John Weller which took place on September 25, 2000. A true and correct copy of Mr. Weller's complaint filed with the Attorney General's Bureau of Consumer Protection including the hearing aid contract/receipt and disclosure agreement is attached hereto and labeled Exhibit No. 10.

47. Since April 2000 defendants have engaged in the practice of using disclosure agreements which set forth fees which defendants treat as nonrefundable in addition to a cancellation fees despite the fact that defendants present consumers with hearing aid contracts/receipts which set forth only the "Full Hearing Aid Price" that the consumers are charged.

48. Since April 2000 the total amount of fees set forth on defendants' disclosure agreements which defendants treat as nonrefundable is approximately equal to twenty-five percent (25%) of the "Full Hearing Aid Price" which a consumer is charged as listed on the consumer's contract/receipt.

49. Since April 2000 defendants have engaged in the practice of treating approximately twenty-five percent (25%) of the "Full Hearing Aid Price" as nonrefundable by reallocating portions of the "Full Hearing Aid Price" to items defendants describe as "FITTING/DISPENSING" fee and "IMPRESSION FEE" on the disclosure agreement provided to the consumer.

50. Defendants' practice of reallocating portions of the "Full Hearing Aid Price" and describing the same as "FITTING/DISPENSING" fee and "IMPRESSION FEE" on the disclosure agreement (hereinafter "Cancellation Fee Packing") and treating these fees as nonrefundable is a violation of §504.1 of the Hearing Aid Law in that it

results in the defendants retaining more than the lesser of $150.00 or ten percent (10%) of the purchase price of the hearing aids when a consumer cancels pursuant to the 30-day money-back guarantee provision of §504.1 of the Hearing Aid Law. 35 P.S. §6700-504.1.

51. Defendants' practice of Cancellation Fee Packing is unlawful and in violation of §201-3 of the Consumer Protection Law in that it constitutes an unfair method of competition and unfair or deceptive act or practice in the conduct of trade or commerce as set forth in §201-2(4)(ii), (iii), (v), (ix) and (xxi).

52. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT IV - FAILURE TO HONOR 3-DAY CANCELLATIONS

53. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

54. Section 201-7 of the Consumer Protection Law requires that a seller honor all valid notices of cancellation from consumers and refund any payments or cancel any negotiable instruments executed by the consumers within ten (10) business days after their receipt of such notice.

55. Plaintiff is informed, believes and therefore avers that when consumers have contacted defendants within three (3) days of a transaction with the consumers indicating they wanted to cancel the transaction, the defendants have misrepresented cancellation rights or attempted to dissuade consumers from exercising the same.

56. Plaintiff is informed, believes and therefore avers that despite having received valid notices of cancellation from consumers defendants have failed to refund payments made by consumers within the ten (10) business day period required by §201-7(g) of the Consumer Protection Law.

57. Defendants' practice of dissuading consumers from exercising their cancellation

rights and failing to refund payments made within ten (10) business days after receipt of valid notices of cancellation are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(xxi) and §201-7 of the Consumer Protection Law.

58. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT V - SONGBIRD CANCELLATION VIOLATIONS

59. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

60. Defendants market a disposable hearing aid known as the Songbird Disposable Hearing Aid which is a hearing aid device which is intended to last approximately forty (40) days and currently sells for $39.00 per hearing aid.

61. In connection with their sale of Songbird Disposable Hearing Aids the defendants provide consumers with a "Disclosure and Guarantee" form (hereinafter the "Songbird Disclosure form") which, inter alia, sets forth the terms of the sale of the Songbird Disposable Hearing Aids, the guarantee accompanying the sale and a disclosure of information including defendants' cancellation policy. A true and correct copy of the defendants' Songbird Disclosure form is attached hereto and labeled Exhibit No. 11.

62. The majority of defendants' transactions resulting in the sale of Songbird Disposable Hearing Aids occur as a result of, or in connection with, a contact or a call on a buyer or resident at their residence and, therefore, said transactions are subject to the cancellation requirements of §201-7 of the Consumer Protection Law.

63. Defendants' Songbird Disclosure form indicates that there is a $100.00 fitting and dispensing fee per side which is nonrefundable.

64. Defendants Songbird Disclosure form gives a consumer notice that they "may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. However, the fitting and dispensing fee of one hundred dollars ($100.00) per side is nonrefundable."

65. Defendants Songbird Disclosure form violates §201-7(b) and (f) of the Consumer Protection Law by not permitting a consumer to cancel a contract without a penalty or obligation and in fact misrepresent a consumer's right to cancel any such transaction without penalty or obligation.

66. Defendants' acts, practices and methods of competition with respect to their sale of Songbird Disposable Hearing Aids are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(ii), (iii), (v), (xxi) and §201-7 of the Consumer Protection Law.

COUNT VI - MISREPRESENTATION

67. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

68. Defendants have applied to the Department of Health and have been issued duplicate certificates of registration for thirty-nine (39) branch offices pursuant to §503 of the Hearing Aid Law. 35 P.S. §6700-503.

69. The actual locations of defendants' thirty-nine (39) branch offices are predominantly hotels and motels located throughout the Commonwealth of Pennsylvania, the names and addresses of which are set forth on Exhibit No. 1 to this complaint.

70. Defendants do not staff their branch offices on a regular basis and in fact, rarely ever schedule hours of operation for said branch offices.

71. Despite the fact that defendants' branch offices are predominantly located in hotels and motels and are infrequently staffed by the defendants, the defendants have represented in advertisements to consumers that they have a presence in the

consumer's local community. An example of one such advertisement is the direct mail piece that defendants sent to Mrs. Louise Benson of Punxsutawney, Pennsylvania. A true and correct copy of said advertisement sent to Mrs. Benson is attached hereto and labeled Exhibit No. 12.

72. Consumers who read the defendants' newspaper advertisements and direct mail solicitations such as the one attached as Exhibit No. 12 might reasonably believe that the defendants have an actual presence in their community.

73. Defendants' practice of obtaining duplicate certificates of registration for branch offices located in hotels and motels they infrequently staff, combined with defendants' advertisements have the tendency or capacity to deceive or confuse consumers or to cause confusion or misunderstanding among consumers.

74. Defendants' acts, practices and methods of competition set forth above are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce as set forth in §201-2(4)(ii), (iii), (v), (vii) and (xxi).

75. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT VII - DEFECTIVE RECEIPTS

76. Paragraphs 1 through 21 of the foregoing complaint are incorporated herein by reference.

77. The Hearing Aid Law requires sellers of hearing aids to provide purchasers with receipts that contain specific information and disclosures. 35 P.S. §6700-504.

78. The hearing aid contract/receipt and Songbird Disclosure form that the defendants provide to consumers as receipts for their purchase of hearing aids do not contain all of the information and disclosures required by §504 of the Hearing Aid Law including, but not limited to the information and disclosures set forth in subsections

504(2). 35 P.S. §6700-504(2).

79. Consumers have reason to believe that sellers of hearing aids registered with the Commonwealth Department of Health operate in compliance with the Hearing Aid Law and regulations promulgated pursuant to that law including, but not limited to the use of receipts which comply with §504 of the Hearing Aid Law.

80. Defendants' failure to use a receipt form or other documentation in connection with the sale of hearing aids which comply with §504 of the Hearing Aid Law and unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(ii), (v), (vii) and (xxi).

81. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to enter an Order:

A. Permanently enjoining the defendants from engaging in the acts and practices alleged in this complaint and any other acts and practices which violate the Consumer Protection Law;

B. Directing the defendants to make full restitution to all consumers who have suffered losses as a result of the acts and practices alleged in this complaint and any other acts or practices which violate the Consumer Protection Law;

C. Directing the defendants to pay civil penalties in the amount of One Thousand and 00/100 Dollars ($1000.00) for each and every violation of the Consumer Protection Law, which will increase to Three Thousand and 00/100 Dollars ($3000.00) for each violation involving a victim age 60 or older;

D. Directing the defendants to disgorge and forfeit all profits they have derived as a

result of their unfair and deceptive acts and practices as set forth in this complaint;

E. Directing the defendants to pay the Commonwealth for the costs of its investigation and prosecution of this action; and,

F. Providing any other such relief as the Court may deem necessary and appropriate.

DATE: July 3, 2001

Respectfully submitted,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

COUNTY OF CAMBRIA)
)
) SS:
COMMONWEALTH OF PENNSYLVANIA)
)

AFFIDAVIT

I, Timothy B. Shirey, being duly sworn according to law, hereby state that I am Agent for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Complaint in Equity and Petition for Permanent Injunction are true and correct to the best of my knowledge, information and belief.

Timothy B. Shirey, Agent

Sworn and subscribed to before me
this 8th day of June, 2001.

Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

BRANCH OFFICES

Best Western 101 East Walnut Street Lock Haven, PA 17745	Penn Wells Hotel 62 Main Street Wellsboro, PA 16901	Gutherie Inn 255 Spring Street Sayre, PA 18840
First United Methodist Church 125 7th St., St. Clair Ave. Ent. Renovo, PA 17764	Genetti Lycoming Hotel 4th & Williams Streets Williamsport, PA 17701	Mansfield Motor Inn 26 Main Street Mansfield, PA 16933
Howard Johnson 1220 West Main Street Stroudsburg, PA 18360	Days Inn Rts. 11 & 15 Shamokin Dam, PA 17876	Comfort Inn 99 Robinson Street Pottstown, PA 19464
Pantell Hotel Mahoning Street Punxsutawney, PA 15767	Comfort Inn 976 South Street St. Mary's, PA 15857	Holiday Inn 1 Seneca Street Oil City, PA 16301
Lancaster County Holiday Inn Exit 21 & Rte. 272 Denver, PA 17517	Holiday Inn North 1492 Lititz Pike Lancaster, PA 17601	Days Inn 304 East North Street New Castle, PA 16101
Holiday Inn 1095 Wayne Avenue Chambersburg, PA 17201	Holiday Inn 202 Shaffer Street Somerset, PA 15501	Holiday Inn Rt. 322 Burnham, PA 17009
Central Motel 701 Altamont Boulevard Frackville, PA 17931	Econo Lodge 189 Columbia Mall Road Bloomsburg, PA 17815	Holiday Inn Sumneytown Pike Kulpsville, PA 19445
Best Western 3rd & Larry Holmes Drive Easton, PA 18042	Holiday Inn R.D. #2, Box 38 Hazleton, PA 15201	Clarion Days Inn Rt. 68 & I-80 Exit 9 Clarion, PA 16214
Quality Inn, Lebabon Valley Quentin Rd. & Poplar St. Lebanon, PA 17042	Warrington Motor Lodge 701 East Road Warrington, PA 18976	Best Western Motel 239 West Main Street Waynesboro, PA 17268
Days Inn 1370 West Chestnut Washington, PA 15301	Howard Johnson 100 South David Street Bradford, Pa 16701	4 Points Hotel by Sheraton 100 Sheraton Drive Greensburg, PA 15601
Hampton Inn 1101 College Avenue State College, PA 16804	Best Western University Inn 1545 Wayne Avenue Indiana, PA 15701	Holiday Inn 210 Ludlow Street Warren, PA 16365
Days Inn Rte. 15 Lewisburg, PA 17837	Comfort Inn Industrial Park Road Clearfield, PA 16830	Harbor Inn Intersection Rt. 322 & 53 Philipsburg, PA 16866
Towanda Motel 383 York Avenue Towanda, PA 18848	Holiday Inn 2600 East Market Street York, PA 17401	Comfort Inn RR 1, Box 22 Blairsville, PA 15717

Exhibit No. 1

HEARING AID FITTERS

HEARING AID FITTER	CERTIFICATE NUMBER
Randy L. Anderson	F02723
Tracy Bullers	A02115
Robert W. Fauls	F02682
Richard L. Kerstetter	F02764
Ricky A. Pape	F02548
Thomas S. Snedden	F02502

Exhibit No. 2

M.E. JONES HEARING INSTURMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: _____

Name: _____ Age: _____

Address: _____ Phone: ( ) _____

City: _____ State: _____

Zip Code: _____ County: _____ New _____ Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Custom Earmold	Receiver Cord	Battery Size	Access
		RT.					
		LF.					

Full Hearing Aid Price ..... _____

..... _____

Subtotal ..... _____

Down Payment ..... _____

Balance Due ..... _____

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF _____YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION , DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION( ).

YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This _____ Day of _____ Year _____ Purchaser: _____

in presence of:

Countersigned: _____ Co-purchaser: _____

Consultant and Registration Number: _____

Exhibit No. 3

NOTICE OF CANCELLATION

Date: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OF SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OF IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO:

M.E. JONES HEARING INSTRUMENTS, AT 101 N. MAIN STREET, DUBOIS, PA 15801, NOT LATER THAN MIDNIGHT OF _____.
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

_____
(BUYER'S SIGNATURE)

_____
ACKNOWLEDGEMENT OF COPY

_____
(DATE)

Exhibit No. 4

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME _____ AGE_____

ADDRESS_____ PHONE ( )_____

CITY_____ STATE_____ ZIP_____

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT	LEFT INSTRUMENT
CANCELLATION $ _____	CANCELLATION $ _____
FITTING/DISPENSING $ _____	FITTING/DISPENSING $ _____
IMPRESSION FEE $ _____	IMPRESSION FEE $ _____
TOTAL $ _____	TOTAL $ _____

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

_____ _____
CUSTOMER'S SIGNATURE DATE

_____ _____
REGISTRANT'S SIGNATURE DATE

Exhibit No. 5

MARKETING SPECIALISTS, INC.

PRICE LIST

	WHL.	RETAIL
FULL SHELL	$379.00	$1,000.00
FULL SHELL CLD	$489.00	$1,300.00
FULL SHELL EQ II	$489.00	$1,300.00
FULL SHELL SUPER	$439.00	$1,200.00
FULL SHELL PP	$419.00	$1,100.00
HALF SHELL	$399.00	$1,100.00
HALF SHELL CLD	$499.00	$1,300.00
HALF SHELL EQ II	$499.00	$1,300.00
CANAL	$489.00	$1,400.00
CANAL CLD	$499.00	$1,500.00
CANAL EQ II	$499.00	$1,500.00
MINI CANAL	$489.00	$1,400.00
MINI CANAL CLD	$499.00	$1,500.00
MINI CANAL EQ II	$499.00	$1,500.00
CIC	$698.00	$1,900.00
CIC CLD	$798.00	$2,200.00

Exhibit No. 6

CANAL DIG PROG II CHANNEL	$865.00	$2,400.00
CANAL BATT AUTO		
DIG PROG I CHANNEL	$869.00	$2,450.00
CANAL BATT AUTO		
DIG PROG II CHANNEL	$875.00	$2,500.00
MINI CANAL DIG PROG I CHANNEL	$879.00	$2,400.00
MINI CANAL DIG PROG II CHANNEL	$885.00	$2,500.00
MINI CANAL BATT AUTO		
DIG PROG I CHANNEL	$889.00	$2,550.00
MINI CANAL BATT AUTO		
DIG PROG II CHANNEL	$895.00	$2,600.00
CIC DIG PROG I CHANNEL	$979.00	$2,900.00
CIC DIG PROG II CHANNEL	$999.00	$3,000.00

FULL RECH	$479.00	$1,400.00
FULL RECH CLD	$499.00	$1,500.00
FULL RECH AUTO	$499.00	$1,500.00
FULL RECH AUTO CLD	$499.00	$1,500.00
FULL BATT AUTO	$479.00	$1,400.00
FULL BATT AUTO CLD	$499.00	$1,500.00
FULL BATT AUTO SUPER	$479.00	$1,400.00
FULL BATT AUTO SUPER CLD	$499.00	$1,500.00
FULL BATT AUTO EQ II	$499.00	$1,500.00
HALF SHELL BATT AUTO	$479.00	$1,400.00
HALF SHELL BATT AUTO CLD	$499.00	$1,500.00
HALF SHELL BATT AUTO EQ II	$499.00	$1,500.00
CANAL BATT AUTO	$499.00	$1,500.00
CANAL BATT AUTO CLD	$529.00	$1,600.00
CANAL BATTAUTO EQ II	$529.00	$1,600.00
MINI CANAL BATT AUTO	$519.00	$1,550.00
MINI CANAL BATT AUTO CLD	$539.00	$1,650.00
MINI CANAL BATTEQ II	$539.00	$1,650.00
FULL SHELL DIG PROG I CHANNEL	$759.00	$2.000.00
FULL SHELL DIG PROG II CHANNEL	$765.00	$2,050.00
FULL SHELL DIG PROG MEMORY	$769.00	$2,100.00
FULL SHELL BATT AUTO DIG PROG I CHANNEL	$775.00	$2,150.00
FULL SHELL BATT AUTO DIG PROG II CHANNEL	$779.00	$2,200.00

HALF SHELL DIG PROG I CHANNEL	$829.00	$2,200.00
HALF SHELL DIG PROG II CHANNEL	$835.00	$2,250.00
HALF SHELL DIG PROG MEMORY	$839.00	$2,300.00
HALF SHELL BATT AUTO DIG PROG I CHANNEL	$845.00	$2,350.00
HALF SHELL BATT AUTO DIG PROG II CHANNEL	$849.00	$2,400.00
CANAL DIG PROG I CHANNEL	$859.00	$2,300.00

CONSUMER COMPLAINT FORM

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
Attorney General

RETURN TO: BUREAU OF CONSUMER PROTECTIO
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, Pennsylvania 15931
(814) 949-7900

OFFICE USE ONLY
INVESTIGATOR: COMPLAINT #
Code 1 Code 2

YOUR AGE:
(STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ☐ 60 or olde

YOUR NAME Charles E. Lewis

HOME PHONE (814) 765-4066 BEST NUMBER TO CALL DURING THE DAY (814) 765 - 4066

ADDRESS 809 Dorey Street

CITY Clearfield STATE PA ZIP CODE 16830 COUNTY Clearfield

NAME OF BUSINESS COMPLAINT IS AGAINST M.E. Jones Hearing Instruments

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED Mark E. Jones, Dealer

ADDRESS 101 N. Main Street / PO Box 686 CITY DuBois 800-223-3341

STATE PA ZIP CODE 15801 COUNTY Clearfield PHONE (814) 371-6401

Products or Services Purchased	Purchase Price
2 hearing aids	~~2200.00~~ 1800.00

If your complaint involves a motor vehicle, please provide the following informati
Mileage on vehicle when purchased n/a
Mileage on vehicle when you started experiencing problems —
Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased
Indicate type, name & address of warranty company, if any —

What other agencies have you complained to? Chamber of Commerce, Clfd Boro. Police
What action was taken? Police referred to Agency on Aging + AG's Office
Have you retained an attorney? ☐YES ☒NO? If yes, please provide your attorney's name, address, & telephone number n/a

Have you filed a court action? ☐YES ☒NO? If yes, please state WHEN n/a
WHERE n/a and WHAT decision was made? n/a

Exhibit No. 7

PLEASE COMPLETE THE REVERSE SIDE

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statemer the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

A rep. from ME Jones called Cns and requested in-home demonstration of products. When Cns said "Not interested", her response was "free cleaning (of existing aid) + no obligation" 2/23/00 Robert Fauls visited Cns, at which time Cns stated again he did not wish to purchase products. Cns states Fauls told him he could try the products for 30-days. Cns was fitted with molds + gave Fauls a $20. cash down payment. Cns signed attached paperwork. When Fauls returned 2/28/00 with aids, Fauls attempted to put the (L) aid in Cns' ear, forcefully, + requested a lubricant. Fauls requested a check (which was cashed the following day) Cns informed Fauls the aid was uncomfortable + didn't fit. Subsequently, attempts at returning the products + receiving full refund have been unsuccessful. Mr. Lewis commented that Fauls persisted in the sale, makin

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

him feel uncomfortable. He ~~deg~~ made the analogy of being raped. Mr. Lewis wants a full Refund.

PLEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party complained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature Barry Swales Protective Services - CCAAA *Date* 3/17/00

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME John Ammerman AGE 86

ADDRESS 723 Beech St. PHONE (814) 236-1996

CITY Curwensville STATE Pa ZIP 16833

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN ~~THIRTY (30)~~ sixty (60) E.W.Tull is 5-00 DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

	RIGHT INSTRUMENT	LEFT INSTRUMENT
10%	CANCELLATION $ 200.00	CANCELLATION $
	FITTING/DISPENSING $ 165.00	FITTING/DISPENSING $
All	IMPRESSION FEE $ 35.00	IMPRESSION FEE $
	TOTAL $ 400.00 (2000.00)	TOTAL $

$1,000 - due

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

[signature] 11-17-00

CUSTOMER'S SIGNATURE DATE

E.W. Tull 11-17-00

REGISTRANT'S SIGNATURE DATE

Group Exhibit No. 8

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Paul H Dornich AGE 65

ADDRESS 753 N. St. Marys PHONE (814 781 - 1732

CITY St Marys STATE Pa ZIP 15857

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

8-16-00 ~~30~~ 90 (very) ~~2207~~ 5000

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	300.00	CANCELLATION $	300.00
FITTING/DISPENSING $	265.00	FITTING/DISPENSING $	265.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

x Paul H Dornich — 7-18-00
CUSTOMER'S SIGNATURE — DATE

R.W. Fouts — 7-18-00
REGISTRANT'S SIGNATURE — DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Matt Mussey AGE 71

ADDRESS 840 Savannah Rd PHONE (724) 658-697K

CITY New Castle STATE Pa ZIP 16101

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	250.00	CANCELLATION $	250.00
FITTING/DISPENSING $	215.00	FITTING/DISPENSING $	215.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Matt Mussey — 11-13-00
CUSTOMER'S SIGNATURE — DATE

RW Fauls — 11-13-00
REGISTRANT'S SIGNATURE — DATE

Exhibit No. 9

CONSUMER COMPLAINT FORM

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
Attorney General

RETURN TO: BUREAU OF CONSUMER PROTECTION
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, Pennsylvania 15931
(814) 949-7900

RECEIVED
OCT - 5 2000
Office of Attorney General

INVESTIGATOR:
Code 1 303

OFFICE USE ONLY
Code 2 820.
COMPLAINT # 00-1149 CR

YOUR AGE: (STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ☑ 60 or older

YOUR NAME John W. Weller

HOME PHONE (814) 658 - 3451 BEST NUMBER TO CALL DURING THE DAY ( ) Same

ADDRESS Box 11 - 1 Fulton St.,

CITY James Creek STATE Pa. ZIP CODE 16657-0011 COUNTY Huntingdon

NAME OF BUSINESS COMPLAINT IS AGAINST M. E. Jones Hearing Instruments

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED Called Paul's 800 Number

ADDRESS 101 N. Main St., CITY DuBois

STATE Pa. ZIP CODE 15801 COUNTY _____ PHONE (800) 223 - 3341

Products or Services Purchased	Purchase Price

If your complaint involves a motor vehicle, please provide the following information:

Mileage on vehicle when purchased _____

Mileage on vehicle when you started experiencing problems _____

Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased

Indicate type, name & address of warranty company, if any _____

What other agencies have you complained to? Better Business Bureau of Western Pa.

What action was taken? They advised us to not have any dealings with this Company.

Have you retained an attorney? ☐YES ☒NO? If yes, please provide your attorney's name, address, & telephone number _____

Have you filed a court action? ☐YES ☒NO? If yes, please state WHEN _____

WHERE _____ and WHAT decision was made? _____

Exhibit No. 10

PLEASE COMPLETE THE REVERSE SIDE OF COMPLAINT FORM

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

See attached copy..

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Get our $100.00 back , and if we are charged $1,000.00 for saying we didn't want the hearing aids to get us out of having to pay this amount.

PLEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party complained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature John W. Weller *Date* 10-04-00

Copy

Around the 21st of September we received a telephone call from M.E.. Jones Hearing Agency asking if someone could come and test our hearing at no cost to us. Since John has a hearing problem I scheduled the appointment. The company seemed legitimate.

On Monday September 25, 2000 at 10:00 am Robert Fauls came and tested John's hearing. He said his hearing was very bad, but that he could help. He said that he could fit John with a hearing aid for each ear. There were two prices: $1,000 for each ear and $2,000 for each ear. He convinced us that we should get the $2,000 for each ear hearing aids. Fauls said that if there was a problem all he would have to do was come and plug an instrument he had into the hearing aids and he could make it right for John.

Fouls said we had to make a down payment and we gave him a check in the amount of $100. He said he would need to have the remaining $3,900 on the day of delivery (October 2, 2000). He kept repeating that when he delivered the hearing aids, if John wasn't satisfied for any reason he would take them back and refund our check for $100 and that would be that. He never mentioned it would cost $1000 if we canceled after three days. He never explained the disclosure agreement sheet and we thought it was part of the $4,000 cost. After gaining our trust he slipped the disclosure agreement in with the rest of the papers to be signed. We never questioned him because of the many times he said that if we weren't happy we would get our money back. If we had understood that it would cost $1000 to cancel after three days John never would have signed the papers.

On October 1, 2000, I began wondering how the company got our name and phone number and felt uneasy about the deal. I talked with our daughter and she suggested that I do some checking. She located your name and number on the Internet, as well as the Better Business Bureau of Western PA. When there didn't seem to be any listing in the DuBois Directory for the company I thought it was worth giving you a call.

Robert Fauls was to deliver the hearing aids at 10:00 am on October 2nd. At 9:00 am on that day I called your office and talked to Larry Hoover. He advised us to not answer the door when Fauls came to deliver so we didn't. We also called the Better Business Bureau (412-456-2700) and they advised us not to have any dealings with this company.

Fauls came to our door at least five times that day. He also left a message on the answering machine for us to call his 800 number. We had the answering machine pick up all calls that day. The phone rang every half hour with the caller not leaving a message (which is very unusual for us). We assumed the caller was Fauls. At 3:30 PM I spoke again to Larry Hoover. He told us to call Fauls and tell him that we were not interested in doing business with him. If he had any questions he was to call your number. There were no more calls that day.

This man really took us over. He was so very nice and reassuring that we completely trusted him. We were so pleased at the prospect that John's hearing could be helped that we were not on our guard. We feel taken advantage of as he never explained the cancellation policy. We are senior citizens on a limited income and would appreciate anything you could do to help us. We do not know if he will now try to collect money from us. We can not afford to pay $1000 and have nothing to show for it. If there is a way out of this we would like to know.

Thanks to Larry Hoover for all his help. We are grateful and await further instructions.

M.E. JONES HEARING INSTRUMENTS
101 North Main Street • PO Box 686
DuBois, Pennsylvania 15801

DISCLOSURE AND GUARANTEE

Name_____Age_____

Address _____Phone ( ) _____

City_____State_____Zip _____

SONGBIRD DISPOSABLE HEARING AIDS

Purchaser understands and agrees to the following:

_____1. There is a One Hundred Dollars ($100.00) fitting and dispensing fee per side which is nonrefundable.

_____2. The cost of the first Songbird Disposable Hearing Aid is Thirty Nine Dollars ($39.00) for each ear for a total of Seventy Eight Dollars ($78.00) for both ears which will last approximately forty (40) days. This cost is refundable. The first set of Songbird Disposable Hearing Aids are sold with a thirty (30) day trial period. If this (these) hearing aid(s) are not satisfactory and are returned within thirty (30) days from_____ or by _____, the cost of the hearing aids of Thirty Nine Dollars ($39.00) each will be refunded.

_____3. I am under no obligation to order more Songbird Disposable Hearing Aids unless I am satisfied with the hearing aid's performance.

_____4. Future Songbird Disposable Hearing Aids can be purchased at a cost of Thirty Nine Dollars ($39.00) each. Songbird Disposable Hearing Aid Batteries are activated when exposed to air and I should not open a Songbird Disposable Hearing aid until I am ready to install it in my ear.

NEW SONGBIRD DISPOSABLE HEARING AID(S)

L-MODEL _____**SERIAL #** _____

R-MODEL _____**SERIAL #** _____

GUARANTEE

M.E. Jones Hearing Instruments guarantees each of the Songbird Disposable Hearing Aids against any defect in material or workmanship for a period of thirty (30) days from the date purchaser installs hearing aid in his or her ear. All necessary replacements will be made promptly and without charge during the guarantee period when returned to this office or other authorized agent. This guarantee does not apply to damage resulting from accident, unauthorized alteration, misuse or abuse to the hearing aid.

DISCLOSURE

The purchaser has been advised at the outset of his or her relationship with the hearing aid dealer that any examination or representation made by a registered hearing aid dealer and fitter in connection with the practice of fitting and selling of this hearing aid, is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this Commonwealth and therefore must not be regarded as medical opinion.

If your rights are violated, you may contact the State Bureau of Consumer Protection or the Pennsylvania Department of Health in Harrisburg or your local District Attorney.

I have been given the user instruction booklet and have thoroughly reviewed it and had the opportunity to read the statement of FDA waiver ( ).

I have not been encouraged in any way to waive a medical evaluation ( ).

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. However, the fitting and dispensing fee of One Hundred Dollars ($100.00) per side is nonrefundable. In the event M.E. Jones Hearing Instruments has supplied a Songbird Disposable Hearing Aid, then the cost of the first hearing aid(s) is refundable. I understand I am under no obligation to purchase additional songbird Disposable Hearing Aid(s).

I further understand that my hearing should be retested each year and the fitting of the Songbird Disposable Hearing Aids should be redone each year to ensure proper fit and maximum benefit.

I have read and understand this statement and any questions I had about it were answered to my satisfaction.

CUSTOMER'S SIGNATURE _____DATE _____

CONSULTANT'S SIGNATURE _____DATE _____

REGISTRANT'S CERTIFICATE NUMBER: _____

Exhibit No. 11

This is an advertisement for M.E. Jones mailed to Box holder. It does not pertain to my case but I thought it might be of interest to you.

L.B.

PA Registered Hearing Aid Fitters

Dear Neighbor,

As members of your local health care team, we would like to take this opportunity to introduce our services, and give you three good reasons why you should trust your hearing to us.

Years of Experience Helping the Hearing Impaired

1

M.E. Jones Hearing Instruments' staff has over 125 years combined experience in helping the hearing impaired! You will have the opportunity to meet with one of our specialists themselves. At that time you will be able to ask any questions you may have concerning your hearing and the different types of help available.

State-of-the-Art Testing Equipment

2

When you come in, your hearing will be expertly tested using sophisticated testing equipment. The test is absolutely FREE OF CHARGE and you may have a copy of it for your records.

We are Committed to Helping You Hear Better!

3

M.E. Jones has hearing instruments for any aidable hearing loss. Some are so small most people won't notice them. Others can be adjusted for different listening situations. If you already wear hearing aids they will be cleaned and adjusted free of charge - while you wait.

To find out if help is available **Will Cost You Nothing**. The only way to determine the extent of a hearing loss and the help available is a complete hearing evaluation conducted by a trained professional. Please accept the enclosed rebate check for your exclusive use.

November 16th, 17th & 18th

Location

M.E. Jones Hearing Instruments
@ Pantall Hotel
135 E. Mahoning Street
Punxsutawney, PA
In-home testing and evening appointments are available
1(800)223-3341
Please see the enclosed appointment card for details.
We look forward to meeting you!

(over)

Exhibit No. 12

M.E. Jones Hearing Instruments
Punxsutawney, PA

This Voucher Expires
November 18, 1999

7334
90-324
43939

THE SUM 300 DOLS 00 CTS **********

To The Order Of
THE BENSON FAMILY
RR 1 BOX 479
PUNXSUTAWNEY PA 15767-9303

Mark Jones

⑆332970239⑆ 09780932 16⑈

Non-negotiable rebate voucher. Good toward purchase of complete hearing system. ($100 off one hearing aid). Not good with any other offer.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION – EQUITY
NO. 01- C.D.

COMMONWEALTH OF PENNSYVLANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER

PLAINTIFF

V

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS
And JOSEPH G. PANNETTE, individually
And d/b/a J.G. PANNETTE MARKETING
SPECIALISTS, INC.

DEFENDANTS

COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

Pd - $80.00 Commonwealth of PA

FILED 5 cc
9:10
JUL 03 2001
William A. Shaw
Prothonotary
Atty Creehan

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059 -C.D.

ORDER

AND NOW, this 3 day of July, 2001, upon consideration of the Motion for a Preliminary Injunction filed by the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, a hearing on said Motion for Preliminary Injunction is hereby scheduled for 16th day of July, 2001, in Courtroom No. 1 at 3:00 P .M.

BY THE COURT

J.

FILED

JUL 03 2001

William A. Shaw
Prothonotary

FILED

JUL 03 2001
019:55/5c
William A. Shaw
Prothonotary

c atty Creany

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01- 1059-C.D. MOTION FOR A PRELIMINARY INJUNCTION

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

FILED

JUL 03 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01- -C.D. MOTION FOR A PRELIMINARY INJUNCTION

MOTION FOR PRELIMINARY INJUNCTION

AND NOW, this 3rd day of July, 2001, comes the Commonwealth of Pennsylvania acting by D. Michael Fisher, Attorney General, through the Pennsylvania Bureau of Consumer Protection, and respectfully files this Motion for a Preliminary Injunction pursuant to §201-4 of the Unfair Trade Practices and Consumer Protection Law ("Consumer Protection Law"), 73 P.S. §201-4 and Pa.R.C.P. No. 1531, and in support thereof represents the following:

1. Plaintiff is the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection ("Commonwealth") and filed a Complaint in Equity and Petition for a Permanent Injunction on the 3rd day of July, 2001.
2. Defendants are Mark E. Jones, individually, and Mark E. Jones doing business as M.E. Jones Hearing Instruments and Joseph G. Pannette, individually, and Joseph G. Pannette doing business as J.G. Pannette Marketing Specialists, Inc., who have engaged in trade and commerce in the Commonwealth of Pennsylvania.
3. Defendants have engaged in the advertisement for sale and sale of hearing aids to consumers who are residents of the Commonwealth of Pennsylvania.
4. As more fully set forth in the complaint filed herein, in furtherance of their plan and

practice of advertising and selling hearing aids, the defendants:

A. Charge consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Charge consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition to the cancellation fee that is charged (hereinafter "Cancellation Fee Packing");

C. Extend the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Fail to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresent cancellation rights, or otherwise attempt to dissuade consumers from exercising the same;

E. Use a form in connection with their sale of the Songbird disposable hearing aid (hereinafter the "Songbird Disclosure form") which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7; and,

F. Use receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law (hereinafter "Hearing Aid Law").

5. Defendants continue to sell hearing aids to consumers using the methods, acts and practices set forth in paragraph 4 above.

6. Defendants' hearing aid sales practices cause confusion and misunderstanding among consumers as to the Commonwealth's certification or approval of the defendants' practices.

7. Defendants misrepresent and engage in deceptive conduct that causes confusion and

misunderstanding as to the consumer's right to cancel hearing aid sales transactions and receive refunds.

8. Defendants' conduct constitutes a violation of the Hearing Aid Law.

9. Defendants' conduct constitutes a violation of the Consumer Protection Law.

10. The Commonwealth's right to relief is clear and the Commonwealth is likely to succeed on the merits of the claim in its complaint in equity.

11. Defendants' violation of the Consumer Protection Law and the Hearing Aid Law constitute irreparable harm.

12. The Commonwealth and the public will continue to suffer irreparable harm if defendants are allowed to continue using the aforementioned methods, acts and practices in advertising and selling hearing aids.

13. The Commonwealth has no adequate remedy at law.

14. This Court has authority under Pa.R.C.P. No. 1531 and §201-4 of the Consumer Protection Law to issue a preliminary injunction if it finds that immediate and irreparable injury will be sustained. 73 P.S. §201-4.

15. Defendants' past and ongoing violations of the Consumer Protection Law constitute immediate and irreparable injury.

WHEREFORE, the Commonwealth prays this Honorable Court to issue a Preliminary Injunction Order:

A. Preliminarily restraining the defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition

to the cancellation fee that is charged;

C. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from extending the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from failing to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresenting cancellation rights, or otherwise attempting to dissuade consumers from exercising the same;

E. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using any form in connection with their sale of the Songbird disposable hearing aid, or any other hearing aid, which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7;

F. Preliminary restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law;

G. Scheduling a hearing in order to address this motion for a preliminary injunction; and,

H. Granting any other such further relief as this Court may deem necessary and appropriate to effectuate the purposes of the Consumer Protection Law.

DATE: July 3, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION – EQUITY
NO. 01- -C.D.

COMMONWEALTH OF PENNSYVLANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER

PLAINTIFF

V

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS
and JOSEPH G. PANNETTE, individually
and d/b/a J.G. PANNETTE MARKETING
SPECIALISTS, INC.

DEFENDANTS

MOTION FOR A
PRELIMINARY INJUNCTION

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

FILED
JUL 03 2001
09:55/Esq. a Hy Creamy
William A. Shaw
Prothonotary

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendants, Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc., in the above captioned matter.

Date: July 11, 2001

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

FILED
JUL 12 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:
DEFENDANTS	:

CERTIFICATE OF SERVICE

I, Thomas W. Creehan, do hereby affirm that I served certified copies of the Complaint in Equity and Petition for a Permanent Injunction upon the defendants, Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., by hand delivering certified copies of the Complaint in Equity and Petition for a Permanent Injunction to the defendants' agent Joellen Pape on Tuesday, July 3, 2001, at 10:52 A.M. who was the person in charge, at the defendants' principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania at the time of said service.

Date: July 3, 2001

Thomas W. Creehan
Agent Supervisor

Sworn to and subscribed before me
this 3rd day of July, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

FILED

JUL 13 2001

William A. Shaw
Prothonotary

FILED
JUN 13 2001
m11:40 n/cc
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

FILED

JUL 20 2001

William A. Shaw
Prothonotary

MOTION FOR SPECIAL INJUNCTION

AND NOW, this 20th day of July, 2001, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and respectfully moves this Court for a special injunction and preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure and alleges in support thereof the following:

1. On July 3, 2001, plaintiff filed a verified Complaint and Petition for a Permanent Injunction and a Motion for a Preliminary Injunction with this Court which are docketed to the above captioned action number.
2. On July 3, 2001, The Honorable John K. Reilly, Jr. entered an Order scheduling a hearing on the Commonwealth's Motion for a Preliminary Injunction for the 16th day of July, 2001, at 3:00 P.M.
3. Without providing notice to the Commonwealth or obtaining plaintiff's consent, defendants' attorney, David J. Hopkins, contacted the Clearfield County Court Administrator's Office and obtained an ex parte continuance of the preliminary injunction hearing that was scheduled for July 16th. This contact took place on or about July 13, 2001.

4. The defendants' counsel did not give counsel for the Commonwealth notice of his entry of appearance until 8:36 p.m. on July 13, 2001. (A representative copy of notice of Attorney Hopkins' Entry of Appearance is attached hereto and labeled Exhibit "A".)

5. Sometime after 4:00 p.m. on July 13th a secretary from Attorney David J. Hopkins' office left a message with the Attorney General's Office that the hearing scheduled for July 16th had been continued. Counsel for the Commonwealth was not available at the time said message was left and did not receive the same until early Monday, July 16th.

6. On the mornings of July 16th, 17th and 18th counsel for the Commonwealth called Attorney Hopkins' office and left messages for Attorney Hopkins to contact the Attorney General's Office to discuss concerns regarding the continuance and the defendants' continued sale of hearing aid instruments in violation of the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

7. On July 18th when the Commonwealth's calls were not returned a letter was faxed to Attorney Hopkins outlining the Commonwealth's concerns with defendants' continued business practices and gave notice to Attorney Hopkins that if he failed to contact the Commonwealth to address concerns about the defendants' continued business practices the Commonwealth would present a Motion for a Special Injunction on Friday, July 20, 2001. (A representative copy of the Commonwealth's letter to Attorney Hopkins along with the fax confirmation sheet is attached hereto and labeled Exhibit "B".

8. The Commonwealth is informed, believes and therefore avers since July 3, 2001, defendants directly and through their agents have continued to engage in hearing aid sales in the manner which violates the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

9. The defendants' wrongful conduct is actionable.

10. Defendants will not suffer appreciable injury if a special injunction is granted

because the status quo will be maintained.

11. Plaintiff's rights are clear and plaintiff is likely to succeed on the merits of this claim.

12. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays this Honorable Court to enter a Special Injunction Order restraining and enjoining defendants from:

A. Failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Act.

B. Charging consumers cancellation fees in excess of the amount permitted by §504.1 of the Hearing Aid Sales Registration Act.

C. Engaging in unfair or deceptive acts or practices in connection with the sale of hearing aids by allocating portions of the "full hearing aid price" as nonrefundable fees in excess of the cancellation fees permitted by §501.4 of the Hearing Aid Sales Registration Act.

D. Failing to honor a consumer's notice of cancellation as provided for in §201-7 of the Consumer Protection Law.

E. Using contracts in the sale of goods or services which violate §201-7 of the Consumer Protection Law by misrepresenting a consumer's right to cancel a transaction with 3 days without any penalty or obligation.

F. Using receipts in connection with the sale of hearing aids which do not comply with §504 of the Hearing Aid Sales Registration Act.

G. Scheduling hearing within five (5) days of granting any special injunction which might issue in response to this motion.

H. Granting any other such relief as this Court may deem necessary and appropriate.

DATE: July 20, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendants, Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc., in the above captioned matter.

Date: July 11, 2001

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

Exhibit "A"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: FACSIMILE AND REGULAR MAIL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

July 18, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Each morning for the past three days I have contacted your office to indicate an immediate need to discuss with you the ex parte continuance that was granted on the Commonwealth's Motion for a Preliminary Injunction in the above-captioned case.

While I am deeply concerned by the fact that the continuance was granted ex parte, I am more disturbed by the fact that it appears your clients continue to sell hearing aid goods and services to consumers, mostly elderly, without complying with the laws governing such sales.

With respect to the continuance, we did not even receive word of your entry of appearance until receiving a fax from your office on July 13th at 8:46 p.m. Sometime around 4:00 on the 13th a message was left on my voice mail indicating the hearing scheduled for 3:00 p.m. on July 16th had been continued. At no time prior to that date did you contact me to indicate you were entering an appearance for the defendants and wished to have a continuance. In fact I had heard nothing from you since we met in State College to discuss this matter on June 26, 2001. Had you contacted me, I most likely would have agreed to the continuance. As a result of your lack of communication on this matter our Office incurred time and expense in preparing witnesses for the hearing and serving a subpoena on one of the defendants' employees. I am familiar with the Pennsylvania Rules of Civil Procedure and the Clearfield County Local Court Rules published in

Exhibit "B"

The Pennsylvania Bulletin and I do not believe that the granting of continuance without contacting opposing counsel complies with either the Pennsylvania or Clearfield rules on this matter.

In the course of serving pleadings and subpoenas in this matter, my agents were advised at various times that Mr. Jones and Bob Fauls were out of the office on hearing aid sales appointments. As I mentioned that if I had been consulted I would have been willing to consent to a continuance, however, I would have demanded that your clients cease all hearing aid sales activities which violate the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law as set forth in the complaint which we filed and served upon your clients on July 3rd.

Three days in a row I have contacted your office to discuss the need to have your clients immediately bring their practices into compliance with the Pennsylvania law. At this point I have not had the courtesy of a return phone call.

If I do not hear from you by the close of business today, I will prepare and have filed in Clearfield County Court of Common Pleas on Friday, July 20, 2001, a Motion for a Special Injunction requiring your clients' immediate compliance with the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

Please give this matter your immediate attention. If I do not hear from you, I will proceed accordingly.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

cc: Frank T. Donaghue, Chief Deputy Attorney General

TRANSMIT MESSAGE CONFIRMATION REPORT

NAME:E BARRY CREANY
TEL :814 949 7942
DATE:07/18'01 11:03

TRANSMIT: 9P3755035			DURATION	PAGE	SESS	RESULT
TYPE : MEMORY TX	MODE	14	01'13	03	393	OK

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
Phone Number: (814) 471-1831
Fax: (814) 471-1840

FAX TRANSMISSION COVER SHEET

FAX NUMBER OF RECIPIENT: (814) 375-5035

TO: David J. Hopkins, Esquire

FROM: E. Barry Creany, Senior Deputy Attorney General
Ebensburg Regional Office

SUBJECT: M.E. Jones Hearing Instruments

DATE: July 18, 2001 TRANSMISSION TIME:

NUMBER OF PAGES (including cover): 3

DOCUMENTS:

COMMENTS:

IMPORTANT/CONFIDENTIAL: This communication is intended for the use of the individual or entity to which it is addressed. This message contains information from the Office of Attorney General, Commonwealth of Pennsylvania, which may be privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Receipt of this communication by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION – EQUITY
NO. 01-1059-C.D.

COMMONWEALTH OF PENNSYVLANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER

PLAINTIFF

V

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS
and JOSEPH G. PANNETTE, individually
and d/b/a J. G. PANNETTE MARKETING
SPECIALISTS, INC.

DEFENDANTS

MOTION FOR
SPECIAL INJUNCTION

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

FILED
9:50
JUL 20 2001
William A. Shaw
Prothonotary

4cc Atty General
Creany

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

FILED

JUL 20 2001

William A. Shaw
Prothonotary

ORDER

NOW, this 20th day of July, 2001, upon consideration of Motion for Special Injunction filed on behalf of Plaintiffs above-named, it is the ORDER of this Court that said Special Injunction be and is hereby granted to the extent that Defendants are hereby restrained and enjoined from in any manner violating the provisions of the Hearing Aid Sales Registration Act, 35 P.S. 6700-101 and/or the Consumer Protection Law, 73 P.S. 201-1 et seq.

It is the further ORDER of this Court that on or before Monday, July 23, 2001, Defendants shall produce true and correct copies of all documents relating to all hearing aid sales transactions which M.E. Jones Hearing Instruments entered into with any consumers at any time since July 3, 2001, including, but not limited to, all contract forms, notice of cancellation forms, disclosure agreements, and Songbird disclosure and guarantee forms.

It is the further ORDER of this Court that a hearing on the continuation of this special injunction is hereby scheduled for Tuesday, July 24, 2001, at 10:00 a.m. in Courtroom #1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. Counsel for plaintiff shall

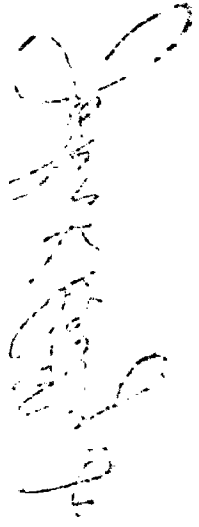
provide notice of such hearing to defendants by service of a copy of this Order on Attorney David J. Hopkins, Esquire, and Defendants shall appear at said hearing.

This special Injunction Order shall be binding on all parties, agents, employees and associates of the Defendants' and all those acting in concert with the Defendants or on behalf of Defendants who have actual knowledge of it.

By the Court,

John K Reilly Jr.

President Judge



FILED
01:26 BM
JUL 20 2001
William A. Shaw
Prothonotary

1 cc Atty Creany
1 cc Atty Hopkins

CK

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	Type of Pleading: Preliminary Objections to the Complaint and Petition for a Permanent Injunction
	Filed on behalf of: Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc.
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED

JUL 24 2001

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

PRELIMINARY OBJECTIONS TO THE COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION AS TO JOSEPH G. PANNETTE, INDIVIDUALLY AND D/B/A J. G. PANNETTE MARKETING SPECIALISTS, INC.

AND NOW, comes Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. by and through his attorneys, The Hopkins Law Firm, and files the within Preliminary Objections to the Complaint and Petition for a Permanent Injunction and in support thereof, says as follows:

I. FAILURE TO SET FORTH A CAUSE OF ACTION.

1. Plaintiff has listed Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc.

2. Individuals and corporations are separate entities and one cannot act individually and as a corporation.

3. Plaintiff's complaint is defective in that it attempts to name Joseph G. Pannette individually and d/b/a J. G. Pannette Marketing Specialists, Inc.

WHEREFORE, Plaintiff's Complaint as to Joseph G. Pannette and J. G. Pannette Marketing Specialists, Inc. should be dismissed.

II. DEMURRER AS TO J. G. PANNETTE MARKETING SPECIALISTS, INC.

4. Plaintiff sets forth in paragraph 20:

> At times relevant to this complaint the defendants were the sole distributors of the hearing aid instruments manufactured by Marketing Specialists, Inc.

5. Paragraph 21 states:

> Marketing Specialists, Inc. had established suggested retail prices for the hearing aids it manufactures and sells through the defendants.

6. Plaintiff's Complaint fails to allege that Marketing Specialists, Inc. sold any hearing aids directly to consumers, but rather, all hearing aids were sold through M. E. Jones Hearing Instruments.

7. Plaintiff has failed to set forth any activity on the part of J. G. Pannette Marketing Specialists, Inc. or Marketing Specialists, Inc. which is prohibited by the Hearing Aid Sales Registration Law or the Consumer Protection Law.

WHEREFORE, Plaintiff's Complaint as to J. G. Pannette Marketing Specialists, Inc. should be dismissed with prejudice.

III. DEMURRER AS TO JOSEPH G. PANNETTE

8. Paragraph 11 of Plaintiff's Complaint sets for in pertinent part:

> In addition, defendant Pannette doing business as J. G. Pannette Marketing Specialists, Inc. manages the office of M. E. Jones Hearing Instruments and is vested with authority to make day-to-day decisions for said business.

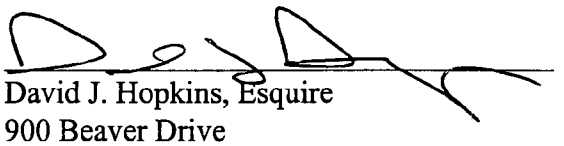
9. However, paragraph 10 states that defendant [M. E.] Jones is a hearing aid fitter and **dealer** conducting business under the name M. E. Jones Hearing Instruments.

10. In as much as the dealer is Mark E. Jones that is the appropriate party to be the defendant in this lawsuit.

11. Plaintiff's Complaint alleges no other activity on the party of Pannette, but rather, all activity is based upon sales by M. E. Jones Hearing Instruments.

WHEREFORE, Plaintiff's Complaint as to Joseph G. Pannette should be dismissed.

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

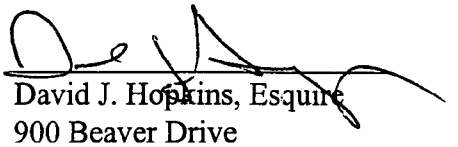
COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Preliminary Objection to the Complaint and Petition for a Permanent Injunction, filed on behalf of Joseph G. Pannette, individually and J. G. Pannette Marketing Specialists, Inc., was forwarded on the 24th day of July, 2001, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED

JUL 24 2001

0110:45 lkc atty

William A. Shaw
Prothonotary

C/ Hopkins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

ORDER

NOW, this 24th day of July, 2001, this being the day and date set for hearing into Plaintiff's Motion for Special Injunction, upon agreement of the parties, it is the ORDER of this Court that the Injunction entered July 20, 2001, shall be and remain in full force and effect until further Order of Court.

By the Court,

President Judge

FILED
JUL 24 2001
William A. Shaw
Prothonotary

FILED

JUL 24 2001

03.33 cc atty Creany

William A. Shaw
Prothonotary

cc atty Hopkins

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	
	Type of Pleading: Answer to Complaint and Petition for a Permanent Injunction
	Filed on behalf of: Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED
JUL 30 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

ANSWER TO COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION ON BEHALF OF MARK E. JONES, INDIVIDUALLY AND D/B/A M. E. JONES HEARING INSTRUMENTS

AND NOW, comes Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, Inc. by and through his attorneys, The Hopkins Law Firm, and answers the Complaint and Petition for Permanent Injunction as follows:

JURISDICTION AND VENUE

1. Admitted.

2. Admitted.

THE PARTIES

3. Admitted.

4. Admitted.

5. Admitted in part and denied in part. Defendant admits Joseph G. Pannette

is an adult individual and a resident of the Commonwealth of Pennsylvania. Answering Defendant denies J. G. Pannette Marketing Specialists, Inc. is a Pennsylvania corporation.

6. No answer is required of this paragraph.

7. Denied. Defendants have not used or are about to use methods, acts or practices declared unlawful by the Consumer Protection Law.

8. Denied. Answering Defendant has not engaged in unlawful methods, acts, practices or omissions nor have they acted in concert or participated in the commission or omission of the same as more fully set forth in this answer.

9. Denied. The public interest will not be served by granting a permanent injunction in as much as the actions of Defendant Jones are not improper or illegal for the reasons set forth in this Answer.

FACTUAL BACKGROUND

10. Admitted.

11. Admitted in part and denied in part. Defendant Jones admits Defendant Pannette is a hearing aid fitter and has been issued a certificate of registration from the Commonwealth of Pennsylvania under Certificate Number F02186. Answering Defendant denies Pannette does business as J. G. Pannette Marketing Specialists, Inc. nor that J. G. Pannette Marketing Specialists, Inc. manages the office of M. E. Jones Hearing Instruments.

12. Admitted.

13. Admitted in part and denied in part. Defendant Jones denies Tracy Buller is still employed by M. E. Jones. The other allegations are admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted in part and denied in part. Defendant Jones admits purchasing hearing aids from Marketing Specialists, Inc. In addition, Defendant Jones purchases hearing aids from other locations throughout the United States.

19. Admitted.

20. Denied. Marketing Specialists, Inc. sells to both M. E. Jones and other individuals or entities throughout the Commonwealth of Pennsylvania.

21. Admitted.

COUNT I – 30-DAY RETURN VIOLATIONS

22. No answer is required of this paragraph.

23. Admitted.

24. Admitted.

25. Admitted in part and denied in part. Defendant Jones admits a written guarantee was not used. However, Defendant Jones gave all purchases verbal notice of their right to cancel By way of further answer, Defendant Jones had been advised that regulations would be forthcoming from the Department of Health. Same were not forthcoming.

26. Admitted in part and denied in part. Defendant Jones admits some consumers did not receive disclosure agreements. However, Defendant Jones denies any consumers were injured as a result of failing to receive a disclosure statement because Defendant Jones always provided a thirty (30) day guarantee to its customers and if any

customer wanted to cancel a transaction within thirty (30) days, they received their money back.

27. Admitted in part and denied in part. Defendant Jones admits that Charles E. Lewis did not receive a disclosure agreement. However, by way of further answer, Defendant denies that Charles E. Lewis suffered any damages. Charles E. Lewis was advised there was a thirty (30) day money back guarantee and Mr. Lewis requested his money and Defendant Jones paid it to him.

28. Denied. There are no customers who attempted to exercise their right to return a hearing aid who did not receive their monies back.

29. Admitted in part and denied in part. Defendant Jones admits to expanding a consumers right to receive a return policy in excess of thirty (30) days. Defendant Jones denies same violates the hearing aid law in that Defendant Jones provides a greater opportunity for the customer to use the hearing aid while still having the opportunity to get their money back. No fair reading of the hearing aid law limits a seller such as Defendant Jones from offering an expanded guaranteed period.

30. Admitted in part and denied in part. Defendant Jones admits that John Ammerman and Paul Dornisch were provided with expanded guaranteed return periods. Defendant Jones denies same is in violation of the hearing aid law.

31. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent that an answer is required, Defendant Jones denies violation of the hearing aid law.

32. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant Jones denies violation of the

hearing aid law.

33. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant Jones denies violation of the hearing aid law.

34. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant Jones denies violation of the Consumer Protection Law.

35. Denied.

COUNT II – CANCELLATION FEE OVERCHARGES

36. No answer is required of this paragraph.

37. Admitted in part and denied in part. Plaintiff admits that one sales person issued fourteen (14) hearing aids with a cancellation fee of ten (10%) percent without the $150.00 limit. When Defendant Jones discovered the transgression, the salesman corrected his policy by limiting cancellation fees at $150.00. By way of further answer, of the fourteen (14) people who had cancellation fees in excess of $150.00, three (3) people cancelled their contracts within three (3) days and received all of their money back. Eight (8) people never requested a refund or cancellation and continue to be an excellent clients of Defendant Jones. Three (3) customer were refunded all of their money.

38. Admitted in part an denied in part for the reasons set forth in answer to No. 38.

39. Admitted in part and denied in part. For the reasons set forth above, Mr. Missey was charged a cancellation fee of $250.00. However, Mr. Missey was not injured

in that he cancelled his contract within three (3) days and received all of his money back, including one hundred (100%) percent of the cancellation fee.

40. Defendant Jones denies the practice of charging customers cancellation fees in excess of ten (10%) percent of the purchase price of the hearing aid or $150.00 which resulted in injury to any customer.

41. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, the allegations set forth in paragraph 41 are denied in total.

42. Denied.

COUNT III – CANCELLATION FEE PACKING

43. No answer is required.

44. Admitted.

45. Admitted.

46. Denied. No contract is attached to Plaintiff's Complaint and Defendant Jones is unable to admit or deny the allegations set forth in paragraph 46.

47. Admitted in part and denied in part. Defendant Jones admits to listing the contract the full hearing aid price without the itemized components. However, the disclosure statement which Defendant uses clearly sets forth the cancellation and fitting/dispnesing fees and any other fees which the hearing aid patient may be required to pay in the event of a cancellation outside of three (3) days.

48. Admitted in part and denied in part. Defendant Jones admits that a review of the cancellation fees and other expenses may be approximately twenty-five (25%) percent of the full hearing aid price. By way of further answer, fitting and dispensing

fees are greater with the complexity of a hearing aid.

49. Admitted in part and denied in part. Defendant Jones admits the fitting/dispensing fee, impression fee, and cancellation fee, usually total 20% to 25% of the total price.

50. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. In the event an answer is required, then the allegations set forth therein are denied. Defendant Jones is authorized to have nonrefundable fitting and dispensing fees and nonrefundable impression fees and other nonrefundable fees. Defendant is limited though to ten (10%) percent or $150.00 for the actual return of the hearing aid.

51. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is denied for the same reasons as set forth in paragraph 50.

52. Denied.

COUNT IV – FAILURE TO HONOR 3-DAY CANCELLATION

53. No answer is required of this paragraph.

54. Admitted.

55. Admitted in part and denied in part. Defendant Jones admits that if a consumer attempts to cancel the contract, Defendant Jones ascertains why the customer is unhappy. If the problem is a hearing aid adjustment problem or some other problem which Defendant Jones believes can be corrected, then Defendant Jones takes those steps necessary to make the customer happy. However, any customer who wishes to cancel a contract can cancel the contract. All other allegations of paragraph 55 are denied.

56. Denied. In the event Defendant Jones receives a valid notice of cancellation, then refunds are paid.

57. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. The Defendant does not violate the Consumer Protection Law in attempting to work with the customer to make that customer happy.

58. Denied.

COUNT V – SONGBIRD CANCELLATION VIOLATIONS

59. No answer is required of this paragraph.

60. Admitted.

61. Admitted.

62. Denied. Fourteen (14) Songbird Hearing Aids have been sold to customers in their homes. Defendant Jones further denies the sale of Songbird Hearing Aids are subject to the cancellation provisions of Section 201-7 of the Consumer Protection Law.

63. Admitted.

64. Admitted.

65. Denied. Defendant Jones denies that the Songbird disclosure violates the Consumer Protection Law. The fitting fee of $100.00 is a service Defendant Jones has provided to customers and is paid in full when completed.

66. Denied. For the reasons set forth in paragraph 65 and there have been no requests to cancel purchases of the Songbird Hearing Aids.

COUNT VI - MISREPRESENTATION

67. No answer is required of this paragraph.

68. Admitted.

69. Admitted.

70. Admitted.

71. Denied. All of Defendant Jones' advertisements list the location where hearing aid screenings are being given.

72. Denied. For the reasons set forth in Defendant Jones' answer No. 71. By way of further answer, Defendant Jones believes all of the citizens of Pennsylvania are neighbors.

73. Denied. The activities of Defendant Jones are specifically sanctioned by the Commonwealth of Pennsylvania Department of Health.

74. No answer is required of this paragraph. To the extent an answer is required, then same is denied for the reasons set forth in paragraphs 71 and 73.

75. Denied.

COUNT VII – DEFECTIVE RECEIPTS

76. No answer is required of this paragraph.

77. Admitted.

78. Denied. All of the information required by the hearing aid law is set forth on the disclosure statement.

79. Admitted.

80. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is denied for the reason set forth in paragraph 78.

81. Denied.

WHEREFORE, Defendant Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments demands judgment dismissing Plaintiff's Complaint with prejudice in total and award cost of suit to Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and grant Defendant Jones such other relief as the Court deems fair, just and equitable.

NEW MATTER

82. Defendant incorporates all of the allegations set forth in the preceding paragraphs as if set forth at length herein.

83. The claims of Plaintiff are barred inasmuch as the actions of Defendants have been authorized by the Commonwealth of Pennsylvania, Department of Health.

84. The claims of Plaintiff are barred inasmuch as all of the activities complained are industry standards used throughout the Commonwealth of Pennsylvania in the hearing aid industry.

85. The claims of Plaintiff are barred by Plaintiff's failure to communicate with the Defendant.

86. The claims of Plaintiff are barred inasmuch as the statute is vague and unenforceable.

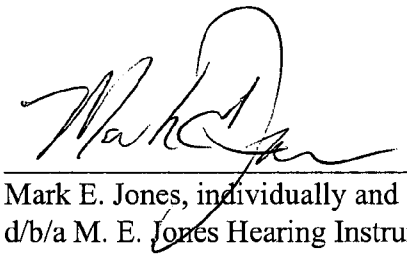
87. The claims of the Commonwealth are barred inasmuch as the statute relied upon by the Commonwealth of Pennsylvania is void.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



Mark E. Jones, individually and
d/b/a M. E. Jones Hearing Instruments

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

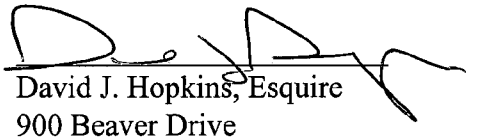
COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Complaint and Petition for a Permanent Injunction, filed on behalf of Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, was forwarded on the 30th day of July, 2001, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

FILED

JUL 30 2001

0/9:30/2 cc atty Hopkins

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	
DEFENDANTS	

CERTIFICATE OF SERVICE

I, Thomas W. Creehan, do hereby affirm that I served a Subpoena to Attend and Testify upon Robert Fauls by hand delivery on Thursday, July 12, 2001, at 4:50 P.M., at R.R. 1, Box 26, Reynoldsville, Jefferson County, Pennsylvania.

Date: July 13, 2001

Thomas W. Creehan
Agent Supervisor

Sworn to and subscribed before me
this 13th day of July, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 16, 2002

FILED
JUL 30 2001
William A. Shaw
Prothonotary

FILED
2:49
JUL 30 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	
DEFENDANTS	

CERTIFICATE OF SERVICE

I, Janet M. Mulraney, do hereby affirm that I served a copy of an Order dated July 20, 2001, upon Daivd J. Hopkins, counsel for defendants by facsimile on Friday, July 20, 2001, at 12:07 P.M.

Date: July 20, 2001

Janet M. Mulraney
Clerk Typist

Sworn to and subscribed before me
this 20th day of July, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

FILED

JUL 30 2001

William A. Shaw
Prothonotary

TRANSMIT MESSAGE CONFIRMATION REPORT

NAME:E BARRY CREANY
TEL :814 949 7942
DATE:07/20'01 12:07

TRANSMIT: 9P3755035			DURATION	PAGE	SESS	RESULT
TYPE : MEMORY TX	MODE	14	01'10	03	416	OK

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
Phone Number: (814) 471-1831
Fax: (814) 471-1840

FAX TRANSMISSION COVER SHEET

FAX NUMBER OF RECIPIENT: (814) 375-5035

TO: David J. Hopkins, Esquire

FROM: E. Barry Creany, Senior Deputy Attorney General EBC
Ebensburg Regional Office

SUBJECT: M.E. Jones Hearing Instruments

DATE: July 20, 2001 TRANSMISSION TIME:

NUMBER OF PAGES (including cover): 3

DOCUMENTS:

COMMENTS:

Attached is a conformed copy of Judge Reilly's Order being served upon you pursuant to the directive in that Order.

IMPORTANT/CONFIDENTIAL: This communication is intended for the use of the individual or entity to which it is addressed. This message contains information from the Office of Attorney General, Commonwealth of Pennsylvania, which may be privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Receipt of this communication by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

ORDER

NOW, this 20th day of July, 2001, upon consideration of Motion for Special Injunction filed on behalf of Plaintiffs above-named, it is the ORDER of this Court that said Special Injunction be and is hereby granted to the extent that Defendants are hereby restrained and enjoined from in any manner violating the provisions of the Hearing Aid Sales Registration Act, 35 P.S. 6700-101 and/or the Consumer Protection Law, 73 P.S. 201-1 et seq.

It is the further ORDER of this Court that on or before Monday, July 23, 2001, Defendants shall produce true and correct copies of all documents relating to all hearing aid sales transactions which M.E. Jones Hearing Instruments entered into with any consumers at any time since July 3, 2001, including, but not limited to, all contract forms, notice of cancellation forms, disclosure agreements, and Songbird disclosure and guarantee forms.

It is the further ORDER of this Court that a hearing on the continuation of this special injunction is hereby scheduled for Tuesday, July 24, 2001, at 10:00 a.m. in Courtroom #1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. Counsel for plaintiff shall

provide notice of such hearing to defendants by service of a copy of this Order on Attorney David J. Hopkins, Esquire, and Defendants shall appear at said hearing.

This special Injunction Order shall be binding on all parties, agents, employees and associates of the Defendants' and all those acting in concert with the Defendants or on behalf of Defendants who have actual knowledge of it.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	: AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION
DEFENDANTS	:

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
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FILED
AUG 02 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:
DEFENDANTS	:

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS AMENDED COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

KEYSTONE LEGAL SERVICES, INC.
211 ½ EAST LOCUST STREET
CLEARFIELD, PA 16830
(814) 765-9646

Office of Attorney General

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION

AND NOW, this 2nd day of August, 2001, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and brings this action on behalf of plaintiff Commonwealth of Pennsylvania (hereinafter "Commonwealth") pursuant to the Unfair Trade Practices and Consumer Protection Law, Act of December 17, 1968, P.L. 1224, No. 387, as amended and reenacted by the Act of November 24, 1976, P.L. 1166, No. 260, and the Act of December 3, 1996, P.L. 906, No. 146, 73 P.S. §201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law") which authorizes the Attorney General to bring an action in the name of the Commonwealth of Pennsylvania to restrain, by temporary and/or permanent injunction, unfair methods of competition or unfair or deceptive acts or practices in the conduct of any trade or commerce declared unlawful by §201-3 of the Consumer Protection Law. In support of this action the Commonwealth respectfully represents the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 42 Pa. C.S.A. §931(a).

2. Venue in this judicial district is proper under 42 Pa.C.S.A. §931(c) and Pa.R.C.P. No. 1503.

THE PARTIES

3. Plaintiff is the Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection, Ebensburg Regional Office, 171 Lovell Avenue, Suite 202, Ebensburg, Cambria County, Pennsylvania 15931.

4. Defendant Mark E. Jones (hereinafter "Jones") is an adult individual and resident of the Commonwealth of Pennsylvania who does business as M.E. Jones Hearing Instruments and maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

5. Defendant Joseph G. Pannette (hereinafter "Pannette") is an adult individual and resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania as a hearing aid fitter for defendant Jones and is the business manager of M.E. Jones Hearing Instruments. Defendant Pannette participates as the business manager of M.E. Jones Hearing Instruments in his individual capacity or under the assumed name of an unregistered corporation known as J.G. Pannette Marketing Specialists, Inc. In the alternative, defendant Pannette manages M.E. Jones Hearing Instruments in his capacity as the officer, principal or agent of Marketing Specialists, Inc. from a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

6. Defendant Marketing Specialists, Inc. (hereinafter "MSI") is a Pennsylvania corporation which maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

7. Defendant Robert W. Fauls (hereinafter "Fauls") is an adult individual and a resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania and Clearfield County as a hearing aid fitter

who provides sales services for defendant Jones and has been issued a Certificate of Registration from the Commonwealth of Pennsylvania, Department of Health, Certificate No. F02682.

8. Defendant Richard L. Kerstetter (hereinafter "Kerstetter") is an adult individual and a resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania and Clearfield County as a hearing aid fitter who provides sales services for defendant Jones and has been issued a Certificate of Registration from the Commonwealth of Pennsylvania, Department of Health, Certificate No. F02764.

9. Defendant Ricky A. Pape (hereinafter "Pape") is an adult individual and a resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania and Clearfield County as a hearing aid fitter who provides sales services for defendant Jones and has been issued a Certificate of Registration from the Commonwealth of Pennsylvania, Department of Health, Certificate No. F02548.

10. Unless otherwise specified, whenever reference is made in this action to any act of the defendants, such allegations shall be deemed to mean the act of each defendant, acting individually, jointly or severally.

11. Plaintiff has reason to believe that defendants used or are about to use methods, acts or practices declared unlawful by §201-3 of the Consumer Protection Law and which have resulted in or are about to result in harm to consumers.

12. At all times material hereto the unlawful methods, acts, practices or omissions complained of have been willfully used by the defendants, and the defendants have acted in concert or participated in the commission or omission of the same.

13. Plaintiff believes that the public interest is served by seeking before this Court a permanent injunction to restrain the methods, acts and practices described herein.

FACTUAL BACKGROUND

14. Defendant Jones is a hearing aid fitter and a dealer conducting business under the name M.E. Jones Hearing Instruments and has been issued a Certificate of Registration from the Commonwealth of Pennsylvania, Department of Health, Certificate No. F02405.

15. Defendant Pannette is a hearing aid fitter and has been issued a Certificate of Registration from the Commonwealth of Pennsylvania, Department of Health, Certificate No. F02186 who provides hearing aid sales services for defendant Jones.

16. Defendant Pannette is, and was at all times relevant to this action the owner, president, officer or principal of defendant MSI and as such, has personally formulated, controlled, directed and participated in the policies, practices and activities of defendant MSI, including the acts and practices set forth in this amended complaint.

17. Defendant Pannette, as alleged above either in his individual capacity or in his capacity as an officer, principal or agent of defendant MSI, is the manager of the office of M.E. Jones Hearing Instruments and as such is vested with authority to make day-to-day decisions for M.E. Jones Hearing Instruments and participates in major business decisions for said company.

18. Defendant Jones advised the plaintiff that defendant Pannette as J.G. Pannette Marketing Specialists, Inc. has an ownership or pecuniary interest in M.E. Jones Hearing Instruments.

19. Defendant Fauls is an employee of defendant MSI and in that capacity provides his services as a hearing aid fitter and salesman for and acts as the agent of defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania.

20. Defendant Kerstetter is an employee of defendant MSI and in that capacity provides his services as a hearing aid fitter and salesman for and acts as the agent of defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania.

21. Defendant Pape is an employee of defendant MSI and in that capacity provides his

services as a hearing aid fitter and salesman for and acts as the agent of defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania.

22. M.E. Jones Hearing Instruments has been issued Certificates of Registration for thirty-nine (39) branch offices from the Commonwealth of Pennsylvania, Department of Health, Certificate Nos. F02405-1 through F02405-39. Defendants' branch office locations for which they have received Certificates of Registration are identified on the list which has been attached hereto and labeled Exhibit No. 1.

23. In addition to defendants Fauls, Kerstetter and Pape, defendant MSI employs three (3) other hearing aid fitters (hereinafter "hearing aid sales staff") who have received Certificates of Registration from the Commonwealth of Pennsylvania, Department of Health and who provide hearing aid sales services for defendant Jones. The names of these three (3) individuals employed by the defendants as hearing aid fitters are attached hereto and labeled Exhibit No. 2.

24. Defendants, directly or through the hearing aid sales staff, schedule visits with Pennsylvania consumers for the purpose of conducting hearing aid tests which often lead to the defendants' offer to sell hearing aids to said consumers.

25. A substantial portion of those consumers who the defendants deal with are sixty (60) years of age or older.

26. In connection with their sale of hearing aids to consumers defendants use several sales documents including, but not limited to a sales contract/receipt and a notice of cancellation form. A true and correct copy of said sales contract/receipt is attached hereto and labeled Exhibit No. 3; and, a true and correct copy of said Notice of Cancellation form is attached hereto and labeled Exhibit No. 4.

27. In addition to the documents referred to in paragraph 26 above, since April 2000 defendants Jones, Pape and MSI have been using a disclosure agreement form in connection with the sale of the hearing aids of M.E. Jones Hearing Instruments to consumers. A true and correct copy of said Disclosure Agreement form is attached hereto and labeled Exhibit No. 5.

28. In the event consumers agree to purchase hearing aids from M.E. Jones Hearing Instruments, hearing aids delivered to the consumers are ones that have been manufactured by defendant MSI.

29. At all times relevant to this amended complaint defendant Jones was the sole distributor of hearing aids manufactured by defendant MSI.

30. Defendant MSI had established suggested retail prices for the hearing aids it manufactures and sells through defendant Jones. A true and correct copy of said price list is attached hereto and labeled Exhibit No. 6.

COUNT I - 30-DAY RETURN VIOLATIONS

31. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

32. Effective February 20, 1999, the Hearing Aid Sales Registration Law (35 P.S. §6700-101, *et seq.*, hereinafter referred to as the "Hearing Aid Law") was amended adding new §504.1 governing the return of the hearing aid that requires sellers to provide purchasers with a 30-day money-back written guarantee. 35 P.S. §6700-504.1.

33. Effective February 20, 1999, the Hearing Aid Law was amended to add §503.1 which required sellers to provide purchasers with a disclosure agreement which would include, but not be limited to an itemization and disclosure of any and all fees associated with the fitting procedure or process and the sale and delivery of a hearing aid or similar device, including any cancellation fees authorized pursuant to the Hearing Aid Law. 35 P.S. §6700-503.1.

34. For a period of more than a year continuing up to at least April 2000, the defendants failed to provide purchasers of hearing aids with disclosure agreements in violation of §503.1 of the Hearing Aid Law.

35. Plaintiff is informed, believes and therefore avers that numerous consumers who purchased hearing aids from the defendants between February 20, 1999, and into April 2000 did not receive the required disclosure agreement apprising them of their

right to return hearing aids within thirty (30) days pursuant to a money back written guarantee or an itemization of fees including any cancellation fees authorized pursuant to the Hearing Aid Law. The identities of all such consumers are known to the defendants.

36. An example of one such consumer who did not receive a disclosure agreement or a notice of his right to return a hearing aid is Charles E. Lewis of Clearfield, Pennsylvania. A true and correct copy of Mr. Lewis' complaint filed with the Attorney General's Bureau of Consumer Protection is attached hereto and labeled Exhibit No. 7.

37. Plaintiff is informed, believes and therefore avers that there are several consumers who attempted to exercise their right to return the hearing aids within thirty (30) days after their purchase from the defendant Jones who did not receive refunds in accordance with the provisions of the Hearing Aid Law. The identities of any such consumers and the amounts not refunded in accordance with the Hearing Aid Law are known to the defendants.

38. Plaintiff is informed, believes and therefore avers that the defendants, or their hearing aid sales staff, have at times changed the terms of their return policy to extend the period within which defendant Jones is required to pay the consumer a refund to sixty (60) days or more after the consumer's return of the hearing aid in violation of §504.1(a) of the Hearing Aid Law.

39. An example of the defendants changing their refund payment term in violation of §504.1 of the Hearing Aid Law occurred in defendants' transactions with John Ammerman of Curwensville, Pennsylvania, and Paul Dornisch of St. Marys, Pennsylvania. True and correct copies of defendants' disclosure statements wherein the refund payment term was changed from thirty (30) days to sixty (60) days in the Ammerman transaction and from thirty (30) days to ninety (90) days in the Dornisch transaction are attached hereto and labeled Group Exhibit No. 8.

40. Defendants' failure to provide consumers with disclosure agreements prior to the

provision of any service or sale of any hearing aids violates §503.1 of the Hearing Aid Law. 35 P.S. §6700-503.1.

41. Defendants' failure to provide refunds to consumers within thirty (30) days of the consumers' return of the hearing aids violates §504.1(a) of the Hearing Aid Law. 35 P.S. §6700-504.1(a).

42. Defendants' practice of extending the time period within which refunds are provided to consumers following their return of hearing aids violates §504.1(a) of the Hearing Aid Law. 35 P.S. §6700-504.1(a).

43. The acts, practices and methods of competition set forth above are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of trade and commerce as defined by the Consumer Protection Law including, but not limited to, §201-2(4)(ii), (v), (vii) and (xxi).

44. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT II - CANCELLATION FEE OVERCHARGES

45. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

46. Defendants have engaged in the practice of charging consumers cancellation fees for the return of hearing aids in amounts that exceed the lesser of ten percent (10%) of the purchase price of the hearing aid or $150.00 in violation of §504.1(c) of the Hearing Aid Law. 35 P.S. §6700-504.1(c).

47. More specifically, in many transactions defendants have charged consumers a flat cancellation fee of ten percent (10%) of the price of the hearing aid as itemized on defendants' sales contract/receipt which exceeded $150.00. The identities of all such consumer transactions are known to the defendants.

48. An example of defendants' practice of cancellation fee overcharges in violation of §504.1(c) of the Hearing Aid Law is the transaction with Matt Missey of Newcastle, Pennsylvania, which occurred on November 13, 2000, in which Mr. Missey was charged a cancellation fee of $250.00 per hearing aid. A true and correct copy of Mr. Missey's sales contract/receipt is attached hereto and labeled Exhibit No. 9.

49. Defendants' practice of charging consumers cancellation fees in excess of ten percent (10%) of the purchase price of the hearing aid or $150.00 is a violation of §501.4.1(c) of the Hearing Aid Law. 35 P.S. §6700-504.1(c).

50. The acts, practices and methods of competition set forth above are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair and deceptive acts or practices in the conduct of trade and commerce as defined by the Consumer Protection Law including, but not limited to, §201-2(4)(ii), (v), (vii) and (xxi).

51. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT III - CANCELLATION FEE PACKING

52. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

53. Defendants routinely sell hearing aids to consumers at the suggested retail prices established by defendant MSI less any discounts pursuant to a promotion or credits offered for hearing aids traded in.

54. Defendants' hearing aid contracts/receipts list the suggested retail price of the hearing aid sold as its "Full Hearing Aid Price".

55. An example of a transaction in which the "Full Hearing Aid Price" listed on the consumer's contract/receipt was the suggested retail price of the hearing aid is the defendants' transaction with John Weller which took place on September 25, 2000.

A true and correct copy of Mr. Weller's complaint filed with the Attorney General's Bureau of Consumer Protection including the hearing aid contract/receipt and disclosure agreement is attached hereto and labeled Exhibit No. 10.

56. Since April 2000 defendants have engaged in the practice of using disclosure agreements which set forth fees which defendants treat as nonrefundable in addition to a cancellation fees despite the fact that defendants present consumers with hearing aid contracts/receipts which set forth only the "Full Hearing Aid Price" that the consumers are charged.

57. Since April 2000 the total amount of fees set forth on defendants' disclosure agreements which defendants treat as nonrefundable is approximately equal to twenty percent (20%) to twenty-five percent (25%) of the "Full Hearing Aid Price" which a consumer is charged as listed on the consumer's contract/receipt.

58. Since April 2000 defendants have engaged in the practice of treating approximately twenty percent (20%) to twenty-five percent (25%) of the "Full Hearing Aid Price" as nonrefundable by reallocating portions of the "Full Hearing Aid Price" to items defendants describe as "FITTING/DISPENSING" fee and "IMPRESSION FEE" on the disclosure agreement provided to the consumer.

59. Defendants' practice of reallocating portions of the "Full Hearing Aid Price" and describing the same as "FITTING/DISPENSING" fee and "IMPRESSION FEE" on the disclosure agreement (hereinafter "Cancellation Fee Packing") and treating these fees as nonrefundable is a violation of §504.1 of the Hearing Aid Law in that it results in the defendants retaining more than the lesser of $150.00 or ten percent (10%) of the purchase price of the hearing aids when a consumer cancels pursuant to the 30-day money-back guarantee provision of §504.1 of the Hearing Aid Law. 35 P.S. §6700-504.1.

60. Defendants' practice of Cancellation Fee Packing is unlawful and in violation of §201-3 of the Consumer Protection Law in that it constitutes an unfair method of competition and unfair or deceptive act or practice in the conduct of trade or

commerce as set forth in §201-2(4)(ii), (iii), (v), (ix) and (xxi).

61. In the event that defendants' Cancellation Fee Packing practice is determined not to be in violation of §504.1 of the Hearing Aid Law then, plaintiff pleads in the alternative that defendants' practice in connection with their sale of hearing aids is nonetheless a violation of §504.1 of the Hearing Aid Law in as much as the amounts of any items which the defendants allocate from the "Full Hearing Aid Price" as nonrefundable fees for services should be subtracted from the "Full Hearing Aid Price" before defendants calculate the amount of any cancellation fee that they charge consumers who exercise their right to receive a refund of the purchase price of any hearing aids pursuant to §504.1 of the Hearing Aid Law.

62. Defendants' failure to subtract items identified as nonrefundable service fees which they had allocated from the "Full Hearing Aid Price" has resulted in consumers being charged cancellation fees that are in excess of the lesser of ten percent (10%) or $150.00 in violation of §504.1 of the Hearing Aid Law.

63. Defendants' practice of charging cancellation fees in excess of the lesser of ten percent (10%) or $150.00 in violation of the Hearing Aid Law constitutes an unfair method of competition and unfair or deceptive act or practice in the conduct of trade or commerce as set forth in §201-2(4)(ii), (iii), (v), (ix) and (xxi).

64. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT IV - FAILURE TO HONOR 3-DAY CANCELLATIONS

65. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

66. Section 201-7 of the Consumer Protection Law requires that a seller honor all valid notices of cancellation from consumers and refund any payments or cancel any negotiable instruments executed by the consumers within ten (10) business days after

their receipt of such notice.

67. Plaintiff is informed, believes and therefore avers that when consumers have contacted defendants Jones, Pannette and MSI within three (3) days of a transaction with the consumers indicating they wanted to cancel the transaction, the defendants have misrepresented cancellation rights or attempted to dissuade consumers from exercising the same.

68. Plaintiff is informed, believes and therefore avers that despite having received valid notices of cancellation from consumers defendants Jones, Pannette and MSI have failed to refund payments made by consumers within the ten (10) business day period required by §201-7(g) of the Consumer Protection Law.

69. The practice of defendants Jones, Pannette and MSI of dissuading consumers from exercising their cancellation rights and failing to refund payments made within ten (10) business days after receipt of valid notices of cancellation are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(xxi) and §201-7 of the Consumer Protection Law.

70. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT V - SONGBIRD CANCELLATION VIOLATIONS

71. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

72. Defendants Jones, Pannette and MSI market a disposable hearing aid known as the Songbird Disposable Hearing Aid which is a hearing aid device which is intended to last approximately forty (40) days and currently sells for $39.00 per hearing aid.

73. In connection with their sale of Songbird Disposable Hearing Aids the defendants

Jones, Pannette and MSI provide consumers with a "Disclosure and Guarantee" form (hereinafter the "Songbird Disclosure form") which, inter alia, sets forth the terms of the sale of the Songbird Disposable Hearing Aids, the guarantee accompanying the sale and a disclosure of information including defendants' cancellation policy. A true and correct copy of the defendants' Songbird Disclosure form is attached hereto and labeled Exhibit No. 11.

74. All, or the substantial majority, of sales of Songbird Disposable Hearing Aids entered into by or on behalf of defendants Jones, Pannette and MSI occur as a result of, or in connection with, a contact or a call on a buyer or resident at their residence and, therefore, said transactions are subject to the cancellation requirements of §201-7 of the Consumer Protection Law.

75. The Songbird Disclosure form used by defendants Jones, Pannette and MSI indicates that there is a $100.00 fitting and dispensing fee per side which is nonrefundable.

76. The Songbird Disclosure form used by defendants Jones, Pannette and MSI gives a consumer notice that they "may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. However, the fitting and dispensing fee of one hundred dollars ($100.00) per side is nonrefundable."

77. The Songbird Disclosure form used by defendants Jones, Pannette and MSI violates §201-7(b) and (f) of the Consumer Protection Law by not permitting a consumer to cancel a contract without a penalty or obligation and in fact misrepresent a consumer's right to cancel any such transaction without penalty or obligation.

78. The acts, practices and methods of competition used by defendants Jones, Pannette and MSI with respect to their sale of Songbird Disposable Hearing Aids are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(ii), (iii), (v), (xxi) and §201-7 of the Consumer Protection Law.

COUNT VI - MISREPRESENTATION

79. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

80. Defendants Jones, Pannette and MSI have applied to the Department of Health and have been issued duplicate certificates of registration for thirty-nine (39) branch offices pursuant to §503 of the Hearing Aid Law. 35 P.S. §6700-503.

81. The actual locations of defendants' thirty-nine (39) branch offices are predominantly hotels and motels located throughout the Commonwealth of Pennsylvania, the names and addresses of which are set forth on Exhibit No. 1 to this amended complaint.

82. Defendants Jones, Pannette and MSI do not staff their branch offices on a regular basis and in fact, rarely ever schedule hours of operation for said branch offices.

83. Despite the fact that said branch offices are predominantly located in hotels and motels and are infrequently staffed by defendants' sales agents or employees, defendants Jones, Pannette and MSI have represented in advertisements to consumers that they have a presence in the consumer's local community. An example of one such advertisement is the direct mail piece that defendants Jones, Pannette and MSI sent to Mrs. Louise Benson of Punxsutawney, Pennsylvania. A true and correct copy of said advertisement sent to Mrs. Benson is attached hereto and labeled Exhibit No. 12.

84. Consumers who read the newspaper advertisement and direct mail solicitation of defendants Jones, Pannette and MSI such as the one attached as Exhibit No. 12 might reasonably believe that the defendants have an actual presence in their community.

85. The advertising practices of defendants Jones, Pannette and MSI have the tendency or capacity to deceive or confuse consumers or to cause confusion or misunderstanding among consumers as to their actual presence in the consumer's community.

86. The acts, practices and methods of competition engaged in by defendants Jones, Pannette and MSI as set forth above are unlawful and in violation of §201-3 of the

Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce as set forth in §201-2(4)(ii), (iii), (v), (vii) and (xxi).

87. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

COUNT VII - DEFECTIVE RECEIPTS AND DISCLOSURE AGREEMENTS

88. Paragraphs 1 through 30 of the foregoing amended complaint are incorporated herein by reference.

89. The Hearing Aid Law requires sellers of hearing aids to provide purchasers with receipts that contain specific information and disclosures. 35 P.S. §6700-504.

90. The hearing aid contract/receipt and Songbird Disclosure form that defendants provide to consumers as receipts for their purchase of hearing aids do not contain all of the information and disclosures required by §504 of the Hearing Aid Law including, but not limited to the information and disclosures set forth in subsections 504(2). 35 P.S. §6700-504(2).

91. The Hearing Aid Law requires sellers of hearing aids to provide purchasers with disclosure agreements which contain a complete description of what the fitting procedure or process does and does not include. 35 P.S. §6700-503.1(a)(1).

92. The disclosure agreement used by the defendants violates the Hearing Aid Law in that it does not contain a complete description of what the fitting procedure or process does and does not include as required by §503.1(a)(1) of the Hearing Aid Law. 35 P.S. §6700-503.1(a)(1).

93. Consumers have reason to believe that sellers of hearing aids registered with the Commonwealth Department of Health operate in compliance with the Hearing Aid Law and regulations promulgated pursuant to that law including, but not limited to the use of receipts and disclosure agreements which comply with §504 and §503.1

of the Hearing Aid Law. 35 P.S. §6700-504 and §6700-503.1.

94. The failure of defendants to use receipt forms, disclosure agreements and other documentation in connection with the sale of hearing aids which comply with §504 and §503.1 of the Hearing Aid Law are unlawful and in violation of §201-3 of the Consumer Protection Law in that they constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade and commerce as set forth in §201-2(4)(ii), (v), (vii) and (xxi).

95. Residents of the Commonwealth of Pennsylvania are suffering and will continue to suffer irreparable harm unless the acts and practices complained of herein are permanently enjoined.

PRAYER FOR RELIEF

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to enter an Order:

A. Permanently enjoining defendants from engaging in the acts and practices alleged in this amended complaint and any other methods, acts or practices which violate the Consumer Protection Law;

B. Permanently enjoining defendants from engaging in any methods, acts or practices which violate the Hearing Aid Law;

C. Directing defendants to pay civil penalties in the amount of One Thousand and 00/100 Dollars ($1,000.00) for each and every violation of the Consumer Protection Law, which will increase to Three Thousand and 00/100 Dollars ($3,000.00) for each violation involving a victim age 60 or older;

D. Directing defendants Jones, Pannette and MSI to make full restitution to all consumers who have suffered losses as a result of the acts and practices alleged in this amended complaint and any other acts or practices which violate the Consumer Protection Law;

E. Directing defendants Jones, Pannette and MSI to disgorge and forfeit all profits they

have derived as a result of their unfair and deceptive acts and practices as set forth in this amended complaint;

F. Directing defendants Jones, Pannette and MSI to pay the Commonwealth for the costs of its investigation and prosecution of this action; and,

G. Providing any other such relief as the Court may deem necessary and appropriate.

DATE: August 2, 2001

Respectfully submitted,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

BRANCH OFFICES

Best Western 101 East Walnut Street Lock Haven, PA 17745	Penn Wells Hotel 62 Main Street Wellsboro, PA 16901	Gutherie Inn 255 Spring Street Sayre, PA 18840
First United Methodist Church 125 7th St., St. Clair Ave. Ent. Renovo, PA 17764	Genetti Lycoming Hotel 4th & Williams Streets Williamsport, PA 17701	Mansfield Motor Inn 26 Main Street Mansfield, PA 16933
Howard Johnson 1220 West Main Street Stroudsburg, PA 18360	Days Inn Rts. 11 & 15 Shamokin Dam, PA 17876	Comfort Inn 99 Robinson Street Pottstown, PA 19464
Pantell Hotel Mahoning Street Punxsutawney, PA 15767	Comfort Inn 976 South Street St. Mary's, PA 15857	Holiday Inn 1 Seneca Street Oil City, PA 16301
Lancaster County Holiday Inn Exit 21 & Rte. 272 Denver, PA 17517	Holiday Inn North 1492 Lititz Pike Lancaster, PA 17601	Days Inn 304 East North Street New Castle, PA 16101
Holiday Inn 1095 Wayne Avenue Chambersburg, PA 17201	Holiday Inn 202 Shaffer Street Somerset, PA 15501	Holiday Inn Rt. 322 Burnham, PA 17009
Central Motel 701 Altamont Boulevard Frackville, PA 17931	Econo Lodge 189 Columbia Mall Road Bloomsburg, PA 17815	Holiday Inn Sumneytown Pike Kulpsville, PA 19445
Best Western 3rd & Larry Holmes Drive Easton, PA 18042	Holiday Inn R.D. #2, Box 38 Hazleton, PA 15201	Clarion Days Inn Rt. 68 & I-80 Exit 9 Clarion, PA 16214
Quality Inn, Lebabon Valley Quentin Rd. & Poplar St. Lebanon, PA 17042	Warrington Motor Lodge 701 East Road Warrington, PA 18976	Best Western Motel 239 West Main Street Waynesboro, PA 17268
Days Inn 1370 West Chestnut Washington, PA 15301	Howard Johnson 100 South David Street Bradford, Pa 16701	4 Points Hotel by Sheraton 100 Sheraton Drive Greensburg, PA 15601
Hampton Inn 1101 College Avenue State College, PA 16804	Best Western University Inn 1545 Wayne Avenue Indiana, PA 15701	Holiday Inn 210 Ludlow Street Warren, PA 16365
Days Inn Rte. 15 Lewisburg, PA 17837	Comfort Inn Industrial Park Road Clearfield, PA 16830	Harbor Inn Intersection Rt. 322 & 53 Philipsburg, PA 16866
Towanda Motel 383 York Avenue Towanda, PA 18848	Holiday Inn 2600 East Market Street York, PA 17401	Comfort Inn RR 1, Box 22 Blairsville, PA 15717

Exhibit No. 1

HEARING AID FITTERS

HEARING AID FITTER	CERTIFICATE NUMBER
Randy L. Anderson	F02723
Tracy Bullers	A02115
Thomas S. Snedden	F02502

Exhibit No. 2

M.E. JONES HEARING INSTURMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: _____

Name: _____ Age: _____

Address: _____ Phone: ( ) _____

City: _____ State: _____

Zip Code: _____ County: _____ New _____ Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Custom Earmold	Receiver Cord	Battery Size	Access
		RT.					
		LF.					

Full Hearing Aid Price ..... _____

..... _____

Subtotal ..... _____

Down Payment ..... _____

Balance Due ..... _____

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF _____YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION , DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION( ).

YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This _____ Day of _____ Year _____ Purchaser: _____

in presence of:

Countersigned: _____ Co-purchaser: _____

Consultant and Registration Number: _____

Exhibit No. 3

NOTICE OF CANCELLATION

Date: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OF SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OF IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO:

M.E. JONES HEARING INSTRUMENTS, AT 101 N. MAIN STREET, DUBOIS, PA 15801, NOT LATER THAN MIDNIGHT OF _____.
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

_____
(BUYER'S SIGNATURE)

_____
ACKNOWLEDGEMENT OF COPY

_____
(DATE)

Exhibit No. 4

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME _____ AGE_____

ADDRESS_____ PHONE ( )_____

CITY_____ STATE_____ ZIP_____

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT	LEFT INSTRUMENT
CANCELLATION $ _____	CANCELLATION $ _____
FITTING/DISPENSING $ _____	FITTING/DISPENSING $ _____
IMPRESSION FEE $ _____	IMPRESSION FEE $ _____
TOTAL $ _____	TOTAL $ _____

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

_____ _____
CUSTOMER'S SIGNATURE DATE

_____ _____
REGISTRANT'S SIGNATURE DATE

Exhibit No. 5

MARKETING SPECIALISTS, INC.

PRICE LIST

	WHL.	RETAIL
FULL SHELL	$379.00	$1,000.00
FULL SHELL CLD	$489.00	$1,300.00
FULL SHELL EQ II	$489.00	$1,300.00
FULL SHELL SUPER	$439.00	$1,200.00
FULL SHELL PP	$419.00	$1,100.00
HALF SHELL	$399.00	$1,100.00
HALF SHELL CLD	$499.00	$1,300.00
HALF SHELL EQ II	$499.00	$1,300.00
CANAL	$489.00	$1,400.00
CANAL CLD	$499.00	$1,500.00
CANAL EQ II	$499.00	$1,500.00
MINI CANAL	$489.00	$1,400.00
MINI CANAL CLD	$499.00	$1,500.00
MINI CANAL EQ II	$499.00	$1,500.00
CIC	$698.00	$1,900.00
CIC CLD	$798.00	$2,200.00

Exhibit No. 6

CANAL DIG PROG II CHANNEL CANAL BATT AUTO	$865.00	$2,400.00
DIG PROG I CHANNEL CANAL BATT AUTO	$869.00	$2,450.00
DIG PROG II CHANNEL	$875.00	$2,500.00
MINI CANAL DIG PROG I CHANNEL	$879.00	$2,400.00
MINI CANAL DIG PROG II CHANNEL MINI CANAL BATT AUTO	$885.00	$2,500.00
DIG PROG I CHANNEL MINI CANAL BATT AUTO	$889.00	$2,550.00
DIG PROG II CHANNEL	$895.00	$2,600.00
CIC DIG PROG I CHANNEL	$979.00	$2,900.00
CIC DIG PROG II CHANNEL	$999.00	$3,000.00

FULL RECH	$479.00	$1,400.00
FULL RECH CLD	$499.00	$1,500.00
FULL RECH AUTO	$499.00	$1,500.00
FULL RECH AUTO CLD	$499.00	$1,500.00
FULL BATT AUTO	$479.00	$1,400.00
FULL BATT AUTO CLD	$499.00	$1,500.00
FULL BATT AUTO SUPER	$479.00	$1,400.00
FULL BATT AUTO SUPER CLD	$499.00	$1,500.00
FULL BATT AUTO EQ II	$499.00	$1,500.00
HALF SHELL BATT AUTO	$479.00	$1,400.00
HALF SHELL BATT AUTO CLD	$499.00	$1,500.00
HALF SHELL BATT AUTO EQ II	$499.00	$1,500.00
CANAL BATT AUTO	$499.00	$1,500.00
CANAL BATT AUTO CLD	$529.00	$1,600.00
CANAL BATTAUTO EQ II	$529.00	$1,600.00
MINI CANAL BATT AUTO	$519.00	$1,550.00
MINI CANAL BATT AUTO CLD	$539.00	$1,650.00
MINI CANAL BATTEQ II	$539.00	$1,650.00
FULL SHELL DIG PROG I CHANNEL	$759.00	$2.000.00
FULL SHELL DIG PROG II CHANNEL	$765.00	$2,050.00
FULL SHELL DIG PROG MEMORY	$769.00	$2,100.00
FULL SHELL BATT AUTO DIG PROG I CHANNEL	$775.00	$2,150.00
FULL SHELL BATT AUTO DIG PROG II CHANNEL	$779.00	$2,200.00

HALF SHELL DIG PROG I CHANNEL	$829.00	$2,200.00
HALF SHELL DIG PROG II CHANNEL	$835.00	$2,250.00
HALF SHELL DIG PROG MEMORY	$839.00	$2,300.00
HALF SHELL BATT AUTO		
DIG PROG I CHANNEL	$845.00	$2,350.00
HALF SHELL BATT AUTO		
DIG PROG II CHANNEL	$849.00	$2,400.00
CANAL DIG PROG I CHANNEL	$859.00	$2,300.00

CONSUMER COMPLAINT FORM

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
Attorney General

RETURN TO: BUREAU OF CONSUMER PROTECT
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, Pennsylvania 15931
(814) 949-7900

OFFICE USE ONLY		
INVESTIGATOR:	COMPLAINT #	YOUR AGE: (STATISTICAL & ENFORCEMENT PURPOSES ONLY) ☐ 18-29 ☐ 30-44 ☐ 45-59 ☐ 60 or old
Code 1	Code 2	

YOUR NAME Charles E. Lewis

HOME PHONE (814) 765-4066 BEST NUMBER TO CALL DURING THE DAY (814) 765-4066

ADDRESS 809 Dorey Street

CITY Clearfield STATE PA ZIP CODE 16830 COUNTY Clearfield

NAME OF BUSINESS COMPLAINT IS AGAINST M.E. Jones Hearing Instruments

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED Mark E. Jones, Dealer

ADDRESS 101 N. Main Street / PO Box 686 CITY DuBois 800-223-3341

STATE PA ZIP CODE 15801 COUNTY Clearfield PHONE (814) 371-6401

Products or Services Purchased	Purchase Price
2 hearing aids	~~2200.00~~ 1800.00

If your complaint involves a motor vehicle, please provide the following informati
Mileage on vehicle when purchased n/a
Mileage on vehicle when you started experiencing problems —
Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased
Indicate type, name & address of warranty company, if any —

What other agencies have you complained to? Cloamber of Commerce, Clfd Boro. Police
What action was taken? Police referred to Agency on Aging + AG's Office
Have you retained an attorney? ☐YES ☒NO? If yes, please provide your attorney's name, address, & telephone number n/a

Have you filed a court action? ☐YES ☒NO? If yes, please state WHEN n/a
WHERE n/a and WHAT decision was made? n/a

Exhibit No. 7

PLEASE COMPLETE THE REVERSE SIDE

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statem the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or an other papers that relate to your complaint.

A rep. from ME Jones called Cns and requested in-home demonstration of products. When Cns said "Not interested", her response was "free cleaning (of existing aid) + no obligatio 2/23/00 Robert Fauls visited Cns, at which time Cns stated again he did not wish to purchase products. Cns states Fauls told him he could try the products for 30-days. Cns was fitted with molds + gave Fauls a $20. cash down payment Cns signed attached paperwork. When Fauls returned 2/28/00 with aids, Fauls attempted to put the (L) aid in Cns' ear, forcefully, + requested a lubricant. Fauls requested a check (which was cashed the following day) Cns informed Fauls the aid was uncomfortable + didn't fit. Subsequently, attempts at returning the products + receiving full refund have been unsuccessful. Mr. Lewis commented that Fauls persisted in the sale, makin

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

him feel uncomfortable. He ~~dec~~ made the analogy of being raped. Mr. Lewis wants a full Refund.

PLEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party complained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature Barry Swales Protective Services - CCAAA Date 3/17/00

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME John Ammerman AGE 86

ADDRESS 723 Beech St. PHONE (814) 236-1996

CITY Curwensville STATE Pa ZIP 16833

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN ~~THIRTY (30)~~ sixty (60) DAYS of the 1st 500 DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT	LEFT INSTRUMENT
10% CANCELLATION $ 200.00	CANCELLATION $
FITTING/DISPENSING $ 165.00	FITTING/DISPENSING $
All IMPRESSION FEE $ 35.00	IMPRESSION FEE $
TOTAL $ 2000.00 400.00 1,000 - due	TOTAL $

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

[signature] 11-17-00
CUSTOMER'S SIGNATURE DATE

[signature] 11-17-00
REGISTRANT'S SIGNATURE DATE

Group Exhibit No. 8

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Paul H Dornisch AGE 65

ADDRESS 753 N. St. Marys PHONE (814 781 - 1732

CITY St Marys STATE Pa ZIP 15857

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY ~~(30)~~ 90 (NINETY) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

8-16-00 RW7 SRCD

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	300.00	CANCELLATION $	300.00
FITTING/DISPENSING $	265.00	FITTING/DISPENSING $	265.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

x Paul H Dornisch — CUSTOMER'S SIGNATURE — 7-18-00 DATE

R.W. Faulds — REGISTRANT'S SIGNATURE — 7-18-00 DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Matt Mussey AGE 71

ADDRESS 840 Savannah Rd PHONE (724) 658-697K

CITY New Castle STATE Pa ZIP 16101

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	250.00	CANCELLATION $	250.00
FITTING/DISPENSING $	215.00	FITTING/DISPENSING $	215.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Matt Mussey — 11-13-00
CUSTOMER'S SIGNATURE — DATE

RW Fauly — 11-13-00
REGISTRANT'S SIGNATURE — DATE

Exhibit No. 9

CONSUMER COMPLAINT FORM

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
Attorney General

RETURN TO: BUREAU OF CONSUMER PROTECTION
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, Pennsylvania 15931
(814) 949-7900

RECEIVED
OCT - 5 2000
Office of Attorney General

OFFICE USE ONLY

INVESTIGATOR:
Code 1 303

Code 2 820.

COMPLAINT # 00-1149 CR

YOUR AGE:
(STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ☑ 60 or older

YOUR NAME John W. Weller

HOME PHONE (814) 658 - 3451 BEST NUMBER TO CALL DURING THE DAY ( ) Same

ADDRESS Box 11 - 1 Fulton St.,

CITY James Creek STATE Pa. ZIP CODE 16657-0011 COUNTY Huntingdon

NAME OF BUSINESS COMPLAINT IS AGAINST M. E. Jones Hearing Instruments

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED Called Paul's 800 Number

ADDRESS 101 N. Main St., CITY DuBois

STATE Pa. ZIP CODE 15801 COUNTY _____ PHONE (800) 223 - 3341

Products or Services Purchased	Purchase Price

If your complaint involves a motor vehicle, please provide the following information:

Mileage on vehicle when purchased _____

Mileage on vehicle when you started experiencing problems _____

Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased

Indicate type, name & address of warranty company, if any _____

What other agencies have you complained to? Better Business Bureau of Western Pa.

What action was taken? They advised us to not have any dealings with this Company.

Have you retained an attorney? ☐YES ☒NO? If yes, please provide your attorney's name, address, & telephone number _____

Have you filed a court action? ☐YES ☒NO? If yes, please state WHEN _____

WHERE _____ and WHAT decision was made? _____

Exhibit No. 10

PLEASE COMPLETE THE REVERSE SIDE OF COMPLAINT FORM

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statement the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

See attached copy.

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Get our $100.00 back , and if we are charged $1,000.00 for saying we didn't want the hearing aids to get us out of having to pay this amount.

PLEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party complained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature John W. Weller *Date* 10-04-00

COPY

Around the 21st of September we received a telephone call from M.E.. Jones Hearing Agency asking if someone could come and test our hearing at no cost to us. Since John has a hearing problem I scheduled the appointment. The company seemed legitimate.

On Monday September 25, 2000 at 10:00 am Robert Fauls came and tested John's hearing. He said his hearing was very bad, but that he could help. He said that he could fit John with a hearing aid for each ear. There were two prices: $1,000 for each ear and $2,000 for each ear. He convinced us that we should get the $2,000 for each ear hearing aids. Fauls said that if there was a problem all he would have to do was come and plug an instrument he had into the hearing aids and he could make it right for John.

Fouls said we had to make a down payment and we gave him a check in the amount of $100. He said he would need to have the remaining $3,900 on the day of delivery (October 2, 2000). He kept repeating that when he delivered the hearing aids, if John wasn't satisfied for any reason he would take them back and refund our check for $100 and that would be that. He never mentioned it would cost $1000 if we canceled after three days. He never explained the disclosure agreement sheet and we thought it was part of the $4,000 cost. After gaining our trust he slipped the disclosure agreement in with the rest of the papers to be signed. We never questioned him because of the many times he said that if we weren't happy we would get our money back. If we had understood that it would cost $1000 to cancel after three days John never would have signed the papers.

On October 1, 2000, I began wondering how the company got our name and phone number and felt uneasy about the deal. I talked with our daughter and she suggested that I do some checking. She located your name and number on the Internet, as well as the Better Business Bureau of Western PA. When there didn't seem to be any listing in the DuBois Directory for the company I thought it was worth giving you a call.

Robert Fauls was to deliver the hearing aids at 10:00 am on October 2nd. At 9:00 am on that day I called your office and talked to Larry Hoover. He advised us to not answer the door when Fauls came to deliver so we didn't. We also called the Better Business Bureau (412-456-2700) and they advised us not to have any dealings with this company.

Fauls came to our door at least five times that day. He also left a message on the answering machine for us to call his 800 number. We had the answering machine pick up all calls that day. The phone rang every half hour with the caller not leaving a message (which is very unusual for us). We assumed the caller was Fauls. At 3:30 PM I spoke again to Larry Hoover. He told us to call Fauls and tell him that we were not interested in doing business with him. If he had any questions he was to call your number. There were no more calls that day.

This man really took us over. He was so very nice and reassuring that we completely trusted him. We were so pleased at the prospect that John's hearing could be helped that we were not on our guard. We feel taken advantage of as he never explained the cancellation policy. We are senior citizens on a limited income and would appreciate anything you could do to help us. We do not know if he will now try to collect money from us. We can not afford to pay $1000 and have nothing to show for it. If there is a way out of this we would like to know.

Thanks to Larry Hoover for all his help. We are grateful and await further instructions.

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Name: John W. Weller Age: 78 Date: 9-25-00

Address: P.O. Box 11 (#1 Fulton) Phone: (814) 658-3451

City: James Creek State: _____

Zip Code: 16657 County: Huntingdon New X Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Custom Earmold	Receiver Cord	Battery Size	Access
MSI	Frog Fuddle	RT. LF.		X	13	X	

Full Hearing Aid Price	#4000.00
Subtotal	4000.00
Down Payment	100.00
Balance Due	ordered #3900.00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS NOT INCLUDING BATTERIES OR CORD WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 25th Day of September Year 2000 Purchaser: X John W. Weller

In presence of:

Countersigned: M. W. Jones Co-purchaser: _____

Consultant and Registration Number _____

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME John W. Weller AGE 78

ADDRESS P.O. Box 11 PHONE (814) 658-3451

CITY James Creek STATE Pa ZIP 16657

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	200.00	CANCELLATION $	200.00
FITTING/DISPENSING $	265.00	FITTING/DISPENSING $	265.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

× John W. Weller — CUSTOMER'S SIGNATURE — 9-25-00 — DATE

RW-Family — REGISTRANT'S SIGNATURE — 9-25-00 — DATE

M.E. JONES HEARING INSTRUMENTS
101 North Main Street • PO Box 686
DuBois, Pennsylvania 15801

DISCLOSURE AND GUARANTEE

Name_____Age_____

Address_____Phone ( ) _____

City_____State_____Zip _____

SONGBIRD DISPOSABLE HEARING AIDS

Purchaser understands and agrees to the following:

_____1. There is a One Hundred Dollars ($100.00) fitting and dispensing fee per side which is nonrefundable.
_____2. The cost of the first Songbird Disposable Hearing Aid is Thirty Nine Dollars ($39.00) for each ear for a total of Seventy Eight Dollars ($78.00) for both ears which will last approximately forty (40) days. This cost is refundable. The first set of Songbird Disposable Hearing Aids are sold with a thirty (30) day trial period. If this (these) hearing aid(s) are not satisfactory and are returned within thirty (30) days from_____ or by _____, the cost of the hearing aids of Thirty Nine Dollars ($39.00) each will be refunded.
_____3. I am under no obligation to order more Songbird Disposable Hearing Aids unless I am satisfied with the hearing aid's performance.
_____4. Future Songbird Disposable Hearing Aids can be purchased at a cost of Thirty Nine Dollars ($39.00) each. Songbird Disposable Hearing Aid Batteries are activated when exposed to air and I should not open a Songbird Disposable Hearing aid until I am ready to install it in my ear.

NEW SONGBIRD DISPOSABLE HEARING AID(S)

L-MODEL _____**SERIAL #** _____

R-MODEL _____**SERIAL #** _____

GUARANTEE

M.E. Jones Hearing Instruments guarantees each of the Songbird Disposable Hearing Aids against any defect in material or workmanship for a period of thirty (30) days from the date purchaser installs hearing aid in his or her ear. All necessary replacements will be made promptly and without charge during the guarantee period when returned to this office or other authorized agent. This guarantee does not apply to damage resulting from accident, unauthorized alteration, misuse or abuse to the hearing aid.

DISCLOSURE

The purchaser has been advised at the outset of his or her relationship with the hearing aid dealer that any examination or representation made by a registered hearing aid dealer and fitter in connection with the practice of fitting and selling of this hearing aid, is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this Commonwealth and therefore must not be regarded as medical opinion.

If your rights are violated, you may contact the State Bureau of Consumer Protection or the Pennsylvania Department of Health in Harrisburg or your local District Attorney.

I have been given the user instruction booklet and have thoroughly reviewed it and had the opportunity to read the statement of FDA waiver ( ).

I have not been encouraged in any way to waive a medical evaluation ( ).

You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. However, the fitting and dispensing fee of One Hundred Dollars ($100.00) per side is nonrefundable. In the event M.E. Jones Hearing Instruments has supplied a Songbird Disposable Hearing Aid, then the cost of the first hearing aid(s) is refundable. I understand I am under no obligation to purchase additional songbird Disposable Hearing Aid(s).

I further understand that my hearing should be retested each year and the fitting of the Songbird Disposable Hearing Aids should be redone each year to ensure proper fit and maximum benefit.

I have read and understand this statement and any questions I had about it were answered to my satisfaction.

CUSTOMER'S SIGNATURE _____DATE _____

CONSULTANT'S SIGNATURE _____DATE _____

REGISTRANT'S CERTIFICATE NUMBER: _____

Exhibit No. 11

This is an advertisement for M.E. Jones mailed to Box holder. It does not pertain to my case but I thought it might be of interest to you.

L.B.

PA Registered Hearing Aid Fitters

Dear Neighbor,

As members of your local health care team, we would like to take this opportunity to introduce our services, and give you three good reasons why you should trust your hearing to us.

Years of Experience Helping the Hearing Impaired

1 M.E. Jones Hearing Instruments' staff has over 125 years combined experience in helping the hearing impaired! You will have the opportunity to meet with one of our specialists themselves. At that time you will be able to ask any questions you may have concerning your hearing and the different types of help available.

State-of-the-Art Testing Equipment

2 When you come in, your hearing will be expertly tested using sophisticated testing equipment. The test is absolutely FREE OF CHARGE and you may have a copy of it for your records.

We are Committed to Helping You Hear Better!

3 M.E. Jones has hearing instruments for any aidable hearing loss. Some are so small most people won't notice them. Others can be adjusted for different listening situations. If you already wear hearing aids they will be cleaned and adjusted free of charge - while you wait.

To find out if help is available **Will Cost You Nothing**. The only way to determine the extent of a hearing loss and the help available is a complete hearing evaluation conducted by a trained professional. Please accept the enclosed rebate check for your exclusive use.

November 16th, 17th & 18th

Location

M.E. Jones Hearing Instruments
@ Pantall Hotel
135 E. Mahoning Street
Punxsutawney, PA
In-home testing and evening appointments are available
1(800)223-3341
Please see the enclosed appointment card for details.
We look forward to meeting you!

(over)

Exhibit No. 12

M.E. Jones Hearing Instruments
Punxsutawney, PA

This Voucher Expires
November 18, 1999

7334
90-324
43939

THE SUM 300 DOLS 00 CTS **********

To The Order Of
THE BENSON FAMILY
RR 1 BOX 479
PUNXSUTAWNEY PA 15767-9303

Mark Jones

⑆332970239⑆ 09780932 16⑈

Non-negotiable rebate voucher. Good toward purchase of complete hearing system. ($100 off one hearing aid). Not good with any other offer.

COUNTY OF CAMBRIA)
)
) SS:
)
COMMONWEALTH OF PENNSYLVANIA)
)

AFFIDAVIT

I, Thomas W. Creehan, being duly sworn according to law, hereby state that I am Agent Supervisor for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Amended Complaint in Equity and Petition for Permanent Injunction are true and correct to the best of my knowledge, information and belief.

Thomas W. Creehan
Agent Supervisor

Sworn and subscribed to before me
this 1st day of August, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA

CIVIL DIVISION – EQUITY
NO. 01-1059-C.D.

COMMONWEALTH OF PENNSYVLANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER

PLAINTIFF

V

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS
and JOSEPH G. PANNETTE, individually
and d/b/a J. G. PANNETTE MARKETING
SPECIALISTS, INC. and MARKETING
SPECIALISTS, INC., and ROBERT W.
FAULS, RICHARD L. KERSTETTER
And RICKY A. PAPE

10 cc Atty
FILED
01 10:58 BY
AUG 02 2001
William A. Shaw
Prothonotary

AMENDED COMPLAINT AND PETITION
FOR A PERMANENT INJUNCTION

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	CIVIL DIVISION - EQUITY
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

CERTIFICATE OF SERVICE

I, Thomas W. Creehan, do hereby affirm that I served the Amended Complaint and Petition for a Permanent Injunction upon Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Marketing Specialists, Inc. by hand delivering same on Thursday, August 2, 2001, at 11:51 A.M., to the defendants' agent Joellen Pape, who was the person in charge, at the defendants' principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania, and also to Ricky A. Pape in the parking lot of 101 North Main Street, DuBois, Clearfield County, Pennsylvania, on Thursday, August 2, 2001.

Date: August 7, 2001

Thomas W. Creehan
Agent Supervisor

Sworn to and subscribed before me this 7th day of August, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

FILED

AUG 10 2001

William A. Shaw
Prothonotary

FILED

AUG 10 2001

m/10:20 cm

William A. Shaw
Prothonotary

no cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:
DEFENDANTS	:

CERTIFICATE OF SERVICE

I, Janet M. Mulraney, do hereby affirm that the Amended Complaint and Petition for a Permanent Injunction was served upon Mark E. Jones and Joseph G. Pannette by mailing same to defendants' counsel, David J. Hopkins, Esquire, The Hopkins Law Firm, 902 Beaver Drive, DuBois, Pennsylvania, by U.S. mail certified/return receipt requested on Monday, August 6, 2001.

Date: August 7, 2001

Janet M. Mulraney
Clerk Typist

Sworn to and subscribed before me

this 7th day of August, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

FILED

AUG 10 2001

William A. Shaw
Prothonotary

FILED
AUG 10 2001
m/10:20 cc
William A. Shaw
Prothonotary
no c/c

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	Type of Pleading: Preliminary Objections to the Amended Complaint and Petition for a Permanent Injunction
	:	Filed on behalf of: Marketing Specialists, Inc.
	:	Counsel of Record for this party:
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	:	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

FILED
AUG 28 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRELIMINARY OBJECTIONS TO THE AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION AS TO MARKETING SPECIALISTS, INC.

AND NOW, comes Marketing Specialists, Inc. by and through its attorneys, The Hopkins Law Firm, and files the within Preliminary Objections to the Amended Complaint and Petition for a Permanent Injunction and in support thereof, says as follows:

I. FAILURE TO COMPLY WITH RULE 400 AND RULE 425.

1. On July 3, 2001, Plaintiff filed a Complaint and Petition for Permanent Injunction naming M. E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc.

2. M. E. Jones filed an Answer to Complaint and Petition for Permanent Injunction.

3. Joseph G. Pannette filed Preliminary Objections to the Complaint and Petition for Permanent Injunction.

4. This Court entered an Order in the above captioned matter on July 20, 2001 and July 24, 2001.

5. On August 2, 2001, Plaintiff filed an Amended Complaint naming Marketing Specialists, Inc. as a Defendant. Service upon Defendant Marketing Specialists, Inc. is defective in that Pa.R.C.P. 400(a) states in pertinent part . . . original process shall be served within the Commonwealth only by the Sheriff.

6. Pa.R.C.P. 425(a) states: "Original process shall be served upon an additional defendant who is not already a party to the action in the same manner as if he were an original defendant." Copies of all pleadings filed in the action shall be served with a complaint against the additional defendant.

7. Attached hereto as Exhibit "A" is a Certificate of Service of one Thomas W. Creehan, who identifies himself as "agent supervisor". Thomas W. Creehan, agent supervisor, is not a sheriff, and therefore, service by the Defendant is defective and in violation of Pa.R.C.P. 400 and therefore ineffective against Defendant, Marketing Specialists, Inc.

8. Plaintiff failed to serve copies of all pleadings filed in the action upon Marketing Specialists, Inc. and only served the Amended Complaint and Petition for a Permanent Injunction.

9. Inasmuch as Plaintiff has failed to comply with both Pa.R.C.P. 400 and Pa.R.C.P. 425, Plaintiff's cause of action as to Marketing Specialists, Inc. should be dismissed with prejudice.

WHEREFORE, Plaintiff's Amended Complaint as to Marketing Specialists, Inc. should be dismissed with prejudice.

II. DEMURRER AND FAILURE TO SET FORTH A CAUSE OF ACTION UPON WHICH RELIEF MAY BE GRANTED AS TO MARKETING SPECIALISTS, INC.

10. Paragraph 6 of Plaintiff's Amended Complaint alleges Defendant Marketing Specialists, Inc. (hereinafter "MSI") is a Pennsylvania corporation which maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

11. Paragraph 28 states that if consumers agree to purchase hearing aids from M. E. Jones Hearing Instruments, hearing aids delivered to the consumers are ones that have been manufactured by MSI.

12. Paragraph 21 alleges that Defendant Jones was the sole distributor of hearing aids manufactured by Defendant MSI.

13. Paragraph 30 alleges MSI established suggested retail prices for the hearing aids it manufactures and sells through Defendant Jones.

14. Plaintiff's Amended Complaint fails to identify MSI as anyone other than the manufacturer. All documents which Plaintiff's attach to its Complaint identifies sales people as working for M. E. Jones Hearing Instruments and nowhere does Plaintiff attach any documents alleging that said individuals work for Marketing Specialists, Inc.

15. Plaintiff's Amended Complaint fails to allege that Marketing Specialists, Inc. undertook any activity which can reasonably be classified as a violation of the Hearing Aid Law 35 P.S. §6700-500 et seq. or the Consumer Protection Law 73 P.S. §201 et seq.

WHEREFORE, inasmuch as Plaintiff's Amended Complaint fails to set forth a cause of action against Marketing Specialist, Inc., Plaintiff's Amended Complaint should be dismissed with prejudice.

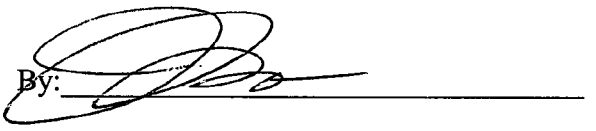
Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Marketing Specialists, Inc.



By: _____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Preliminary Objection to the Amended Complaint and Petition for a Permanent Injunction, filed on behalf of Marketing Specialists, Inc., was forwarded on the 27th day of August, 2001, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,

David J. Hopkins, Esquire

FILED
01:48 BH
AUG 28 2001
William A. Shaw
Prothonotary

1
1CC Atty
Exit

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Type of Pleading: Answer to Amended Complaint and Petition for a Permanent Injunction
	Filed on behalf of: Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually, Defendants
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED
AUG 28 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ANSWER TO AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION ON BEHALF OF MARK E. JONES, INDIVIDUALLY AND D/B/A M. E. JONES HEARING INSTRUMENTS AND JOSEPH G. PANNETTE, INDIVIDUALLY

AND NOW, comes Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, Inc. and Joseph G. Pannette, individually, by and through his attorneys, The Hopkins Law Firm, and answers the Amended Complaint and Petition for Permanent Injunction as follows:

JURISDICTION AND VENUE

1. Admitted.

2. Admitted.

THE PARTIES

3. Admitted.

4. Admitted.

5. Admitted in part and denied in part. To the best knowledge, information and belief of Answering Defendants, Defendants admit Joseph G. Pannette is an adult individual and a resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania as a hearing aid fitter for Defendant Jones and is the business manager of M. E. Jones Hearing Instruments. Answering Defendants denies Joseph G. Pannette exercises control of M. E. Jones Hearing Instruments, Inc. under any assumed name or unregistered corporation or principal or agent of Marketing Specialists, Inc.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. No answer is required of this paragraph.

11. Denied. Defendants have not used nor are about to use methods, acts or practices declared unlawful by the Consumer Protection Law.

12. Denied. Answering Defendants have not engaged in unlawful methods, acts, practices or omissions nor have they acted in concert or participated in the commission or omission of the same as more fully set forth in this answer.

13. Denied. The public interest will not be served by granting a permanent injunction in as much as the actions of Defendant Jones are not improper or illegal for the reasons set forth in this Answer.

FACTUAL BACKGROUND

14. Admitted.

15. Admitted.

16. As to Defendant Jones, no answer is required of this Defendant inasmuch as the allegations do not refer to this Defendant. As to Defendant Pannette, admitted in part and denied in part. Defendant admits he is the owner, president, officer0 or principal of Marketing Specialists, Inc. and has participated in the policies, practices and activities of Marketing Specialists, Inc. Defendant Pannette denies Marketing Specialists, Inc. is involved in the acts and practices set forth in the Amended Complaint and therefore denies same.

17. Admitted in part and denied in part. Answering Defendants admit Joseph G. Pannette is vested with authority to make day to day decisions for M. E. Jones Hearing Instruments and participates in major business decisions for the company. Answering Defendants deny Pannette operates those capacities as an agent or principal of Marketing Specialists, Inc.

18. Denied. To the best knowledge, information and belief, Answering Defendants did not advise Plaintiff that Defendant Pannette operates as J. G. Pannette Marketing Specialists, Inc. nor has an ownership or pecuniary interest in M. E. Jones Hearing Instruments in that capacity.

19. Admitted in part and denied in part. Answering Defendants admit Defendant Fauls is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendants deny Fauls is an employee of Marketing

Specialists, Inc. However, Answering Defendants admit Fauls receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

20. Admitted in part and denied in part. Answering Defendants admit Defendant Kerstetter is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendants deny Kerstetter is an employee of Marketing Specialists, Inc. However, Answering Defendants admit Kerstetter receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

21. Admitted in part and denied in part. Answering Defendants admit Defendant Pape is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendants deniy Pape is an employee of Marketing Specialists, Inc. However, Answering Defendants admit Pape receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

22. Admitted in part and denied in part. Answering Defendants admit M. E. Jones Hearing Instruments has in the past been issued Certificates of Registration for thirty-nine (39) branch offices. Answering Defendants deny those registrations are currently effective.

23. Denied. Answering Defendants deny the individuals set forth on Exhibit No. 2 are employees of Marketing Specialists, Inc.

24. Admitted.

25. Admitted.

26. Admitted in part and denied in part. Answering Defendants admit using Exhibit No. 3 and Exhibit No. 4 prior to the date of this answer. Defendants deny using Exhibit No. 3 today.

27. Admitted in part and denied in part. Answering Defendant admits all allegations other than those allegations which refer to Marketing Specialists, Inc. which are denied.

28. Admitted in part and denied in part. Defendant Jones admits purchasing hearing aids from Marketing Specialists, Inc. In addition, Defendant Jones purchases hearing aids from other locations throughout the United States.

29. Denied. Marketing Specialists, Inc. sells to both M. E. Jones and other individuals or entities throughout the Commonwealth of Pennsylvania.

30. Admitted.

COUNT I – 30-DAY RETURN VIOLATIONS

31. No answer is required of this paragraph.

32. Admitted.

33. Neither admitted nor denied. The Hearing Aid Law, 35 P.S. §6700-503.1 speaks for itself and no answer is required of this Defendant.

34. Admitted in part and denied in part. Answering Defendants admit a written guarantee was not used. However, Defendants gave all purchasers verbal notice of their right to cancel. By way of further answer, Defendant had been advised that

regulations would be forthcoming from the Department of Health. Same were not forthcoming.

35. Admitted in part and denied in part. Defendant admits some consumers did not receive disclosure agreements. However, Defendant denies any consumers were injured as a result of failing to receive a disclosure statement because Defendant always provided a thirty (30) day guarantee to its customers and if any customer wanted to cancel a transaction within thirty (30) days, they received their money back.

36. Admitted in part and denied in part. Defendant admits that Charles E. Lewis did not receive a disclosure agreement. However, by way of further answer, Defendant denies that Charles E. Lewis suffered any damages. Charles E. Lewis was advised there was a thirty (30) day money back guarantee and Mr. Lewis requested his money and Defendant Jones paid it to him.

37. Denied. There are no customers who attempted to exercise their right to return a hearing aid who did not receive their monies back.

38. Admitted in part and denied in part. Defendant admits to expanding a consumers right to receive a return policy in excess of thirty (30) days. Defendant denies same violates the Hearing Aid Law in that Defendant provides a greater opportunity for the customer to use the hearing aid while still having the opportunity to get their money back. No fair reading of the Hearing Aid Law limits a seller such as Defendant from offering an expanded guaranteed period.

39. Admitted in part and denied in part. Defendant admits that John Ammerman and Paul Dornisch were provided with expanded guaranteed return periods. Defendant Jones denies same is in violation of the Hearing Aid Law.

40. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent that an answer is required, Defendant denies violation of the Hearing Aid Law.

41. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant denies violation of the Hearing Aid Law.

42. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant denies violation of the Hearing Aid Law.

43. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Defendant Jones denies violation of the Consumer Protection Law.

44. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed.

COUNT II – CANCELLATION FEE OVERCHARGES

45. No answer is required of this paragraph.

46. Admitted in part and denied in part. Defendants admit that one sales person issued fourteen (14) hearing aids with a cancellation fee of ten (10%) percent without the $150.00 limit. When Defendant Jones discovered the transgression, the salesman corrected his policy by limiting cancellation fees at $150.00. By way of further answer, of the fourteen (14) people who had cancellation fees in excess of $150.00, three (3) people cancelled their contracts within three (3) days and received all of their money back. Eight (8) people never requested a refund or cancellation and continue to be an

excellent clients of Defendant Jones. Three (3) customer were refunded all of their money.

46. Admitted in part and denied in part for the reasons set forth in answer to No. 3.

48. Admitted in part and denied in part. For the reasons set forth above, Mr. Missey was charged a cancellation fee of $250.00. However, Mr. Missey was not injured in that he cancelled his contract within three (3) days and received all of his money back, including one hundred (100%) percent of the cancellation fee.

49. Defendant denies the practice of charging customers cancellation fees in excess of ten (10%) percent of the purchase price of the hearing aid or $150.00 which resulted in injury to any customer.

50. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, the allegations set forth in paragraph 41 are denied in total.

51. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed.

COUNT III – CANCELLATION FEE PACKING

52. No answer is required.

53. Admitted.

54. Admitted.

55. Admitted.

56. Admitted in part and denied in part. Defendant admits to listing the contract the full hearing aid price without the itemized components. However, the

disclosure statement which Defendant uses clearly sets forth the cancellation and fitting/dispensing fees and any other fees which the hearing aid patient may be required to pay in the event of a cancellation outside of three (3) days.

57. Admitted in part and denied in part. Defendant admits that a review of the cancellation fees and other expenses may be approximately twenty-five (25%) percent of the full hearing aid price. By way of further answer, fitting and dispensing fees are greater with the complexity of a hearing aid.

58. Admitted in part and denied in part. Defendant admits the fitting/dispensing fee, impression fee, and cancellation fee, usually total 20% to 25% of the total price. By way of further answer, Defendant Jones has now established set cancellation fees for all hearing aid units.

59. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. In the event an answer is required, then the allegations set forth therein are denied. Defendant is authorized to have nonrefundable fitting and dispensing fees and nonrefundable impression fees and other nonrefundable fees. Defendant is limited though to ten (10%) percent or $150.00 for the actual return of the hearing aid.

60. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is denied for the same reasons as set forth in paragraph 50.

61. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Answering Defendant denies same. Denied. Defendants follow the Department of Health and §504.1 of the Hearing Aid Law in calculating cancellation fees pursuant to the Hearing Aid Law.

62. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, Answering Defendant denies same. Denied. Defendants follow the Department of Health and §504.1 of the Hearing Aid Law in calculating cancellation fees pursuant to the Hearing Aid Law.

63. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, same is denied for the reasons set forth in paragraph 61 and 62.

64. For the reasons set forth herein, residents of the Commonwealth of Pennsylvania are not being harmed.

COUNT IV – FAILURE TO HONOR 3-DAY CANCELLATIONS

65. No answer is required of this paragraph.

66. Admitted.

67. Admitted in part and denied in part. Defendant admits that if a consumer attempts to cancel the contract, Defendant ascertains why the customer is unhappy. If the problem is a hearing aid adjustment problem or some other problem which Defendant believes can be corrected, then Defendant takes those steps necessary to make the customer happy. However, any customer who wishes to cancel a contract can cancel the contract. All other allegations of paragraph 67 are denied. All allegations relating to Marketing Specialists, Inc. are denied.

68. Denied. In the event Defendant receives a valid notice of cancellation, then refunds are paid. All allegations relating to Marketing Specialists, Inc. are denied.

69. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. Defendant does not

violate the Consumer Protection Law in attempting to work with a customer to make that customer happy. All allegations relating to Marketing Specialists, Inc. are denied.

70. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed.

COUNT V – SONGBIRD CANCELLATION VIOLATIONS

71. No answer is required of this paragraph.

72. Admitted in part and denied in part. All allegations as to Marketing Specialists, Inc. are denied. All other allegations are admitted.

73. Admitted in part and denied in part. All allegations as to Marketing Specialists, Inc. are denied. All other allegations are admitted.

74. Denied. Fourteen (14) Songbird Hearing Aids have been sold to customers in their homes. Defendant Jones further denies the sale of Songbird Hearing Aids are subject to the cancellation provisions of Section 201-7 of the Consumer Protection Law. All allegations as to Marketing Specialists, Inc. are denied.

75. Admitted in part and denied in part. All allegations as to Marketing Specialists, Inc. are denied. All other allegations are admitted

76. Admitted in part and denied in part. All allegations as to Marketing Specialists, Inc. are denied. All other allegations are admitted.

77. Denied. Defendant Jones denies that the Songbird disclosure violates the Consumer Protection Law. The fitting fee of $100.00 is a service Defendant Jones has provided to customers and is paid in full when completed. All allegations as to Marketing Specialists, Inc. are denied.

78. Denied. For the reasons set forth in paragraph 77 and there have been no requests to cancel purchases of the Songbird Hearing Aids. All allegations as to Marketing Specialists, Inc. are denied.

COUNT VI - MISREPRESENTATION

79. No answer is required of this paragraph.

80. Admitted in part and denied in part. Answering Defendant denies all allegations as to Marketing Specialists, Inc. All other allegations are admitted.

81. Admitted.

82. Admitted in part and denied in part. Answering Defendant denies all allegations as to Marketing Specialists, Inc. All other allegations are admitted.

83. Denied. All of Defendant's advertisements list the location where hearing aid screening are being given. All allegations as to Marketing Specialists, Inc. are denied.

84. Denied, for the reasons set forth in paragraph 83 of this Answer. By way of further answer, Defendant Jones believes all of the citizens of Pennsylvania are neighbors. All allegations as to Marketing Specialists, Inc. are denied.

85. Denied. All allegations as to Marketing Specialists, Inc. are denied. All other allegations are further denied inasmuch as the citizenry of Pennsylvania is intelligent and knows businesses do not regularly work out of hotels. The activities of Defendant are specifically sanctioned by the Commonwealth of Pennsylvania Department of Health and all advertisements list the location where hearing aid screenings are being given, i.e. hotels.

86. No answer is required of this paragraph. To the extent an answer is required, then same is denied for the reasons set forth in paragraph 85.

87. Denied. For the reasons set forth herein, no residents of the Commonwealth of Pennsylvania are being harmed.

COUNT VII – DEFECTIVE RECEIPTS

88. No answer is required of this paragraph.

89. Admitted.

90. Denied. All of the information required by the Hearing Aid Law is set forth on the disclosure statement.

91. No answer is required of this paragraph. The Hearing Aid Law says what it says.

92. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. The disclosure form meets the requirements of the Hearing Aid Law.

93. Admitted.

94. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. The disclosure form meets the requirements of the Hearing Aid Law.

95. Denied. For the reasons set forth herein, no resident of the Commonwealth of Pennsylvania are being harmed.

WHEREFORE, Defendant Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually, demand judgment dismissing Plaintiff's Complaint with prejudice in total and award cost of suit to Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette,

individually and grant Defendant Jones and Pannette such other relief as the Court deems fair, just and equitable.

NEW MATTER

96. Defendant incorporates all of the allegations set forth in the preceding paragraphs as if set forth at length herein.

97. The claims of Plaintiff are barred inasmuch as the actions of Defendants have been authorized by the Commonwealth of Pennsylvania, Department of Health.

98. The claims of Plaintiff are barred inasmuch as all of the activities complained are industry standards used throughout the Commonwealth of Pennsylvania in the hearing aid industry.

99. The claims of Plaintiff are barred by Plaintiff's failure to communicate with the Defendant.

100. The claims of Plaintiff are barred inasmuch as the statute is vague and unenforceable.

101 The claims of the Commonwealth are barred inasmuch as the statute relied upon by the Commonwealth of Pennsylvania is void.

102. Violations by the Defendant are minor violations for which a penalty is not appropriate.

103. The claims of the Commonwealth are barred inasmuch as actions by Defendant's agents have been outside of the scope of their employment and training.

DEMAND FOR JURY TRIAL

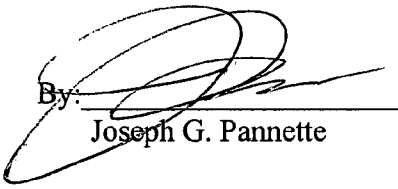
Plaintiffs demand a trial by twelve jurors on all issues presented herein.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.



By: _____
Joseph G. Pannette

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

By: _____
Mark E. Jones, individually and d/b/a
M. E. Jones Hearing Instruments

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Amended Complaint and Petition for a Permanent Injunction, filed on behalf of Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, and Joseph G. Pannette, individually, was forwarded on the 27th day of August, 2001, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,

David J. Hopkins, Esquire

FILED ICC Atty
013:49 BH
AUG 28 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : REPLY TO NEW MATTER

FILED
SEP 06 2001
William A. Shaw
Prothonotary

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COUNSEL FOR MARK E. JONES, INDIVIDUALLY AND D/B/A M.E. JONES HEARING INSTRUMENTS AND JOSEPH G. PANNETTE, INDIVIDUALLY

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

REPLY TO NEW MATTER

AND NOW, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and files this Reply to New Matter and in support thereof respectfully represents the following:

96. Plaintiff incorporates by reference all of the allegations set forth in paragraphs 1 through 95 of the Amended Complaint and Petition for a Permanent Injunction which was filed on August 2, 2001.

97. The statement made in paragraph 97 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that the Commonwealth of Pennsylvania, Department of Health authorized defendants' violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction and strict proof of such claim of authorization is demanded at the time of trial.

98. The statement made in paragraph 98 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an

answer is required, plaintiff denies that the patterns, methods, acts and practices of the defendants which gave rise to violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction constitute "industry standards" in the hearing aid industry. By way of further reply, the plaintiff asserts that claims for violations of the Consumer Protection Law are never barred by patterns, methods, acts or practices that likewise violate the Consumer Protection Law which are undertaken by any individual or groups which are similarly situated to the defendants.

99. The statement made in paragraph 99 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that it has failed to meet any duty to "communicate with Defendant" or that any such action or omission by the plaintiff is a bar to claims for violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction.

100. The statement made in paragraph 100 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff asserts that the defendants' reference to "the statute" in paragraph 100 of their new matter is vague in that it does not identify the statute which defendants claim to be vague and unenforceable. In that the claims made in this matter were brought pursuant to the Consumer Protection Law the plaintiff asserts that said Consumer Protection Law is not vague and is enforceable. Further, to the extent that defendants are challenging the constitutionality of the Consumer Protection Law or any statute, the plaintiff asserts that defendants have not properly raised any such claims relating to the constitutionality of said statutes.

101. The statement made in paragraph 101 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff asserts that the defendants' reference to "the statute" in paragraph 101 of their new matter is vague in that it does not identify the statute

which defendants claim as void. In that the claims made in this matter were brought pursuant to the Consumer Protection Law the plaintiff asserts that said Consumer Protection Law is not void. Further, to the extent that defendants are challenging the constitutionality of the Consumer Protection Law or any statute, the plaintiff asserts that defendants have not properly raised any such claims relating to the constitutionality of said statutes.

102. Admitted in part and denied in part. Plaintiff admits that defendants have engaged in violations of the Consumer Protection Law. Plaintiff denies that any of the violations of the Consumer Protection Law engaged in by the defendants are minor in nature and assert that equitable relief in the form of an injunction, restitution for any affected consumers, the assessment of civil penalties and costs and other equitable relief prayed for in the Amended Complaint and Petition for a Permanent Injunction are warranted in this action.

103. The statement made in paragraph 103 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that the claims for violations of the Consumer Protection Law raised by the plaintiff in the Amended Complaint and Petition for a Permanent Injunction are barred by any acts of defendants' agent. Further, plaintiff asserts that defendants are fully responsible for the supervision and control of their agents and are directly or indirectly liable for the acts or admissions of any such agents which occur in the course of the employment relationship.

REPLY TO DEMAND FOR JURY TRIAL

Defendants' "Demand for Jury Trial" asserts that "Plaintiffs demand a trial by twelve jurors on all issues presented herein." Plaintiff, Commonwealth of Pennsylvania, does not demand a jury trial as set forth by defendants in their new matter. Further, the plaintiff asserts that the Amended Complaint and Petition for a Permanent Injunction was filed as an Action in Equity and that pursuant to Rule 1513 of the Pennsylvania Rules of Civil Procedure trial by jury in equity matters is a matter that is fully within the discretion of the Court. Specifically, the Court may permit impaneling of an

advisory jury to examine specific issues of fact. The plaintiff would not oppose the impaneling of such a jury provided all costs associated with the same are assessed against the defendants.

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

AFFIDAVIT

I, Thomas W. Creehan, being duly sworn according to law, hereby state that I am Agent Supervisor for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of my knowledge, information and belief.

T. W. C.

Thomas W. Creehan
Agent Supervisor

Sworn and subscribed to before me
this 5th day of September, 2001.

Denise J. Powers

Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:
DEFENDANTS	:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Reply to New Matter was forwarded on the 5th day of September, 2001, by U.S. mail, postage prepaid, to the following:

David J. Hopkins, Esquire
The Hopkins Law Firm
902 Beaver Drive
DuBois, Pennsylvania 15801

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Richard L. Kerstetter
Blue Jay Drive
DuBois, PA 15801

Ricky A. Pape
97 Treasure Lake Road
DuBois, PA 15801

DATED: September 5, 2001

E. Barry Creany
Senior Deputy Attorney General

FILED

SEP 06 2001

m 10:53 no cc

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : ANSWER TO PRELIMINARY OBJECTIONS

FILED

SEP 10 2001
m19:13/noCC
William A. Shaw
Prothonotary

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COUNSEL FOR DEFENDANT MARKETING SPECIALISTS, INC.

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

ANSWER TO PRELIMINARY OBJECTIONS

AND NOW, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and files this Answer to Preliminary Objections to the Amended Complaint and Petition for a Permanent Injunction filed by defendant Marketing Specialists, Inc., and in support thereof respectfully represents the following:

I. ANSWER TO FAILURE TO COMPLY WITH RULE 400 AND RULE 425.

1. Admitted.

2. Admitted that on or about July 30, 2001, defendant Mark E. Jones filed an Answer to the Complaint and Petition for a Permanent Injunction.

3. Admitted that on or about July 24, 2001, defendant Joseph G. Pannette filed Preliminary Objections to the Complaint for a Permanent Injunction.

4. Admitted that this Honorable Court entered an Order on July 20, 2001, granting relief pursuant to the Motion for a Special Injunction filed by plaintiffs, and that on July 24, 2001, this Honorable Court entered an Order continuing in place the injunctive

relief granted against defendants Mark E. Jones and Joseph G. Pannette until further order.

5. Admitted in part and denied in part. Plaintiff admits that pursuant to Pa.R.C.P. No. 1028(c)(1) plaintiff filed an Amended Complaint and Petition for a Permanent Injunction naming as defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc., Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape. Said Amended Complaint and Petition for a Permanent Injunction was filed as of course within twenty (20) days from the date that defendant Joseph G. Pannette had filed Preliminary Objections in this action. The statement made in paragraph 5 of the Preliminary Objections that service upon Marketing Specialists is defective is a conclusion of law for which no responsive pleading is required. Inasmuch as a answer is required, plaintiff asserts that service upon Marketing Specialists, Inc. was in full compliance with Pa.R.C.P. No. 400. The immediate action is one brought in equity and, therefore, the provision of Rule 400(a) restricting service to being "only by the Sheriff" as inapplicable in the immediate matter.

6. Pa.R.C.P. No. 425(a) speaks for itself. By way of further answer, plaintiff asserts that said Pa.R.C.P. No. 425 is inapplicable at this point in this matter because Marketing Specialists, Inc. is a defendant in this action and not an additional defendant. Additional defendants are parties joined by defendants or other additional defendants pursuant to Pa.R.C.P. No. 2252.

7. Admitted in part and denied in part. Inasmuch as no "Exhibit A" was attached to defendant's Preliminary Objections served upon plaintiff, plaintiff is unable to admit or deny the authenticity of the exhibit as being a true and correct copy of the certificate of service of Thomas W. Creehan. By way of further answer plaintiff admits that Thomas W. Creehan is not a sheriff. Plaintiff denies that service on defendant Marketing Specialists, Inc. is defective and in violation of Pa.R.C.P. No.

400 for those reasons set forth in paragraph 5 above which are incorporated herein by reference. Additionally, said Thomas W. Creehan has served the Amended Complaint in Equity and Petition for a Permanent Injunction upon all defendants, including Mark E. Jones and Joseph G. Pannette.

8. Admitted in part and denied in part. Plaintiff admits that the Amended Complaint in Equity and Petition for a Permanent Injunction was served upon all parties including defendant Marketing Specialists, Inc. At the time of said service, copies of the Complaint and Petition for a Permanent Injunction, Answer thereto and first Preliminary Objections were not served upon defendants. Plaintiff denies that copies of all pleadings filed in the action were required to be served upon any of the defendants including Marketing Specialists, Inc. for the reasons set forth in paragraph 6 above which is incorporated herein by reference.

9. The statement made in paragraph 9 of the Preliminary Objections contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that it failed to comply with Pa.R.C.P. No. 400, and asserts that Pa.R.C.P. No. 425 is inapplicable in the immediate matter and, therefore, the Preliminary Objections of Marketing Specialists, Inc. should be overruled and dismissed.

WHEREFORE, plaintiff requests this Honorable Court to overrule the Preliminary Objections filed by Marketing Specialists, Inc. and Order it to file an Answer to the Amended Complaint and Petition for a Permanent Injunction within twenty (20) days of Order dismissing said Preliminary Objections.

II. ANSWER TO DEMURRER AND FAILURE TO SET FORTH A CAUSE OF ACTION UPON WHICH RELIEF MAY BE GRANTED AS TO MARKETING SPECIALISTS, INC.

10. Paragraph 6 of plaintiff's Amended Complaint and Petition for a Permanent Injunction speaks for itself and is incorporated herein by reference.

11. Paragraph 28 of plaintiff's Amended Complaint and Petition for a Permanent Injunction speaks for itself and is incorporated herein by reference.

12. Paragraph 21 of plaintiff's Amended Complaint and Petition for a Permanent Injunction speaks for itself and is incorporated herein by reference.

13. Paragraph 30 of plaintiff's Amended Complaint and Petition for a Permanent Injunction speaks for itself and is incorporated herein by reference.

14. Denied. Plaintiff denies that the Amended Complaint and Petition for a Permanent Injunction merely identifies MSI as a manufacturer. To the contrary, the Amended Complaint and Petition for a Permanent Injunction is replete with allegations of the involvement of defendant Marketing Specialists, Inc. in the marketing and sale of hearing aids in violation of the Consumer Protection Law including, but not limited to allegations that it acted in concert or participated in the commission or omission of alleged violations (paragraph 12) and that it was the employer of the hearing aid fitters and salesmen who acted as agents for defendant Jones (paragraph 19, 20, 21 and 23). Further, plaintiff is not required to "attach any documents alleging that said individuals work for Marketing Specialists, Inc." Rather, any relevant documents evidencing the relationship between Marketing Specialists, Inc. and the hearing aid fitters will be requested and produced in the course of discovery in this matter.

15. The statement made in paragraph 15 of the Preliminary Objections contain conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that the Amended Complaint and Petition for a Permanent Injunction fail to contain allegations of violations of the Consumer Protection Law for the reasons set forth in paragraph 14 above which is incorporated herein by reference.

WHEREFORE, plaintiff requests this Honorable Court to overrule the Preliminary Objections filed by Marketing Specialists, Inc. and Order it to file an Answer to the Amended

Complaint and Petition for a Permanent Injunction within twenty (20) days of Order dismissing said Preliminary Objections.

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

VERIFICATION

I, Thomas W. Creehan, hereby verify that I am Agent Supervisor for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that the facts set forth in the foregoing Answer to Preliminary Objections are true and correct to the best of my knowledge, information and belief. This verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to Unsworn Falsification to Authorities.

Thomas W. Creehan
Agent Supervisor

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	:
v	:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:
DEFENDANTS	:

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Preliminary Objections was forwarded on the 7th day of September, 2001, by U.S. mail, postage prepaid, to the following:

David J. Hopkins, Esquire
The Hopkins Law Firm
902 Beaver Drive
DuBois, Pennsylvania 15801

Robert W. Fauls
R.R. #1, Box 26
Reynoldsville, PA 15853

Richard L. Kerstetter
Blue Jay Drive
DuBois, PA 15801

Ricky A. Pape
97 Treasure Lake Road
DuBois, PA 15801

DATED: September 7, 2001

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER
Plaintiff

vs.

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE,
Defendants

CIVIL DIVISION

No. 01 - 1059 - CD

ANSWER AND NEW MATTER

Filed on behalf of:

Defendants, ROBERT W. FAULS, RICHARD L. KERSTETTER, and RICKY A. PAPE

Counsel of Record for Said Parties:

JOHN R. RYAN, ESQUIRE
PA I.D. 38739

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

814/765-1566

FILED
SEP 11 2001
William A. Shaw
Prothonotary

LAW OFFICES OF
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RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER Plaintiff	:	
vs.	:	No. 01 - 1059 - CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

N O T I C E

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this New Matter and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the New Matter or for any other claim or relief requested by the Defendants. You may lose money or property or other rights important to you.

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YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
CLEARFIELD COUNTY COURTHOUSE
Second and Market Streets
Clearfield, PA 16830

Phone 814/765-2641 Ex. 5982

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER Plaintiff	:	
vs.	:	No. 01 - 1059 - CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ANSWER AND NEW MATTER

AND NOW COMES, Defendants, Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape, and by their Attorney, John R. Ryan, Esquire, make their Answer to the Amended Complaint and Petition for a Permanent Injunction filed by the Plaintiff as follows:

JURISDICTION AND VENUE

1. Admitted.

2. Admitted.

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THE PARTIES

3. Admitted.

4. Allegations of Paragraph 4 are directed toward Defendant Mark E. Jones and not the responding Defendants, therefore, no response of pleading is required.

5. Allegations of Paragraph 4 are directed toward Defendant Mark E. Jones and not the responding Defendants, therefore, no response of pleading is required.

6. Allegations of Paragraph 4 are directed toward Defendant Mark E. Jones and not the responding Defendants, therefore, no response of pleading is required.

7. Admitted.

8. Admitted.

9. Admitted.

10. No responsive pleading required.

11. Denied. On the contrary, Defendants, Fauls, Kerstetter and Pape, specifically deny that they have used any methods, acts or practices declared unlawful by Section 201-3 of the Consumer Protection Law and strict proof thereof is demanded at the time of trial.

12. Denied for the reason set forth in Paragraph 11.

13. Denied for the reason set forth in Paragraph 11.

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FACTUAL BACKGROUND

14. Allegations of Paragraph 14 are directed toward Defendant Jones and not to the responding Defendants, therefore, no response is required.

15. Allegations of Paragraph 15 are directed toward Defendant Pannette and not to the responding Defendants, therefore, no response is required.

16. Allegations of Paragraph 16 are directed toward Defendant Pannette and not to the responding Defendants, therefore, no response is required.

17. Allegations of Paragraph 17 are directed toward Defendant Pannette and not to the responding Defendants, therefore, no response is required.

18. Defendants are without knowledge as to what Defendant Jones may have advised the Plaintiff. Therefore, the allegations of Paragraph 18 are denied and strict proof thereof is demanded at the time of trial.

19. Denied. Defendant Fauls is an employee of J.G. Pannette Marketing Specialists, Inc., however, receives a commission from M.E. Jones Hearing Instrument.

20. Denied. Defendant Fauls is an employee of J.G. Pannette Marketing Specialists, Inc., however, receives a commission from M.E. Jones Hearing Instrument.

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21. Denied. Defendant Fauls is an employee of J.G. Pannette Marketing Specialists, Inc., however, receives a commission from M.E. Jones Hearing Instrument.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. It is admitted that the Defendants have in the past used the Sales Contract/Receipt and Notice of Cancellation form as alleged. By way of further response, it is believed and therefore averred that the Defendants have sought an interpretation from the Department of Health as to the legality of these forms and at no time have the Defendants been advised by the Department of Health that such forms were improper or illegal. Further, Defendants believe and therefore aver that the Department of Health has, as of this date, not passed any regulations with respect to the form or content of such forms.

27. Admitted.

28. The content of the answer to Paragraph 26 is incorporated herein by reference as if set forth at length.

29. Admitted.

30. Admitted.

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COUNT I - 30-DAY RETURN VIOLATIONS

31. Paragraphs 1 through 30 of the foregoing Answer are incorporated herein by reference.

32. Admitted.

33. Admitted.

34. Defendants deny that they have acted in violation of the aforesaid Hearing Aid Law and strict proof thereof is demanded at the time of trial.

35. Denied for the reason set forth in Paragraph 34.

36. The allegations of Paragraph 36 are denied and strict proof thereof is demanded at the time of trial.

37. The allegations of Paragraph 37 are denied and strict proof thereof is demanded at the time of trial.

38. The allegations of Paragraph 38 are denied and strict proof thereof is demanded at the time of trial.

39. The allegations of Paragraph 39 are denied and strict proof thereof is demanded at the time of trial.

40. The allegations of Paragraph 40 represent a conclusion of law to which no response is required. To the extent that said allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

41. The allegations of Paragraph 41 represent a conclusion of law to which no response is required. To the extent that said

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allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

42. The allegations of Paragraph 42 represent a conclusion of law to which no response is required. To the extent that said allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

43. The allegations of Paragraph 43 represent a conclusion of law to which no response is required. To the extent that said allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

44. The allegations of Paragraph 44 represent a conclusion of law to which no response is required. To the extent that said allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

COUNT II - CANCELLATION FEE OVERCHARGES

45. Paragraphs 1 through 44 of the foregoing Answer are incorporated herein by reference as if set forth at length.

46. It is denied that the Defendants have engaged in any practices regarding cancellation fees in violation of the Hearing Aid Law as alleged and strict proof thereof is demanded at the time of trial.

47. Denied for the reason set forth in Paragraph 46.

48. Denied for the reason set forth in Paragraph 46.

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49. The allegations of Paragraph 49 represent a conclusion of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

50. The allegations of Paragraph 50 represent a conclusion of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

51. The allegations of Paragraph 51 represent a conclusion of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

COUNT III - CANCELLATION FEE PACKING

52. Paragraphs 1 through 51 of the foregoing Answer are incorporated herein by reference as if set forth at length.

53. Admitted.

54. Admitted.

55. Admitted.

56. The allegations of Paragraph 56 are denied and strict proof thereof is demanded at the time of trial.

57. The allegations of Paragraph 57 are denied and strict proof thereof is demanded at the time of trial.

58. The allegations of Paragraph 58 are denied and strict proof thereof is demanded at the time of trial.

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59. The allegations of Paragraph 59 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

60. The allegations of Paragraph 60 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

61. The allegations of Paragraph 61 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

62. The allegations of Paragraph 62 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

63. The allegations of Paragraph 63 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

64. The allegations of Paragraph 64 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

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COUNT IV - FAILURE TO HONOR 3-DAY CANCELLATIONS

65. Paragraphs 1 through and including Paragraph 64 of the foregoing Answer are incorporated herein by reference as if set forth at length.

66. Admitted.

67. It is denied that Defendants have misrepresented any cancellation rights or attempted to persuade customers from exercising the same. On the contrary, the Defendants have honored cancellations when requested to do so and have attempted to satisfy consumers with respect to complaints concerning the products they have marketed.

68. Denied, and strict proof thereof is demanded at the time of trial.

69. The allegations of Paragraph 69 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

70. The allegations of Paragraph 70 represent conclusions of law to which no response is required. To the extent that said allegations are allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

COUNT V - SONGBIRD CANCELLATION VIOLATIONS

71. Paragraphs 1 through 70 of the foregoing Answer are incorporated herein by reference as if set forth at length.

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72. Admitted.

73. Admitted.

74. It is denied that all, or the substantial majority, of sales of Songbird Disposable Hearing Aids represent transactions subject to the cancellation requirements of the Consumer Protection Law and strict proof thereof is demanded at the time of trial.

75. Admitted.

76. Admitted.

77. Denied for the reason set forth in Paragraph 74 herein above.

78. The allegations of Paragraph 78 represent a conclusion of law to which no response is required. To the extent that said allegations represent allegations of fact, the same are denied and strict proof thereof is demanded at the time of trial.

COUNT VI - MISREPRESENTATIONS

79. Paragraphs 1 through and including Paragraph 78 of the foregoing Answer are incorporated herein by reference as if set forth at length.

80. The allegations of Paragraph 80 apply to Defendants Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants are required.

81. The allegations of Paragraph 81 apply to Defendants Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants are required.

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82. Allegations of Paragraph 82 apply to Defendants Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

83. Allegations of Paragraph 83 apply to Defendants Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

84. Allegations of Paragraph 84 apply to Defendants, Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

85. Allegations of Paragraph 85 apply to Defendants, Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

86. Allegations of Paragraph 86 apply to Defendants, Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

87. Allegations of Paragraph 87 apply to Defendants, Jones, Pannette and MSI and thus, no responsive pleading from the individual Defendants is required.

COUNT VII - DEFECTIVE RECEIPTS AND DISCLOSURE AGREEMENTS

88. Paragraphs 1 through and including Paragraph 87 of the foregoing Answer are incorporated herein by reference as if set forth at length.

89. Admitted.

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90. Denied. On the contrary, the Defendants have complied in good faith with the requirements of the Department of Health with respect to the said disclosures, contracts, and receipts.

91. Denied. On the contrary, the Defendants have complied in good faith with the requirements of the Department of Health with respect to the said disclosures, contracts and receipts.

92. Denied. On the contrary, the Defendants have complied in good faith with the requirements of the Department of Health with respect to the said disclosures, contracts and receipts.

93. Denied. On the contrary, the Defendants have complied in good faith with the requirements of the Department of Health with respect to the said disclosures, contracts and receipts.

94. Denied. On the contrary, the Defendants have complied in good faith with the requirements of the Department of Health with respect to the said disclosures, contracts and receipts.

95. The allegations of Paragraph 95 represent a conclusion of law to which no response is required.

WHEREFORE, the Defendants respectfully request that the Complaint of the Commonwealth be dismissed and judgment be entered in favor of the Defendants.

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NEW MATTER

Defendants, Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape, by and through their Attorney, John R. Ryan, Esquire, file their New Matter as follows:

96. Paragraphs 1 through and including Paragraph 95 of Defendants' Answer are incorporated herein by reference as if set forth at length.

97. Defendants, Fauls, Kerstetter and Pape, are employees of the other named Defendants and as such, do not generate the forms and disclosures complained of by the Commonwealth in its Complaint.

98. The individual Defendants, Fauls, Kerstetter and Pape, are registered hearing aid fitters who give evaluations and fit hearing aids and do not set policy, nor do they draft or generate the forms complained of by the Commonwealth.

99. As such, the individual Defendants, Fauls, Kerstetter and Pape, have no liability for the payment of civil penalties for any alleged violation of the Consumer Protection Law, nor do they have any liability to make restitution to any consumer who alleges a loss as a result of the acts and practices alleged in the Complaint of the Commonwealth.

WHEREFORE, Defendants, Fauls, Kerstetter and Pape, request that the Amended Complaint of the Commonwealth and Petition for

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Permanent Injunction be dismissed and that judgment be entered in favor of said Defendants.

JOHN R. RYAN, ESQUIRE
Attorney for Robert W. Fauls,
Richard L. Kerstetter and
Ricky A. Pape

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VERIFICATION

I verify that I am the Attorney for the Defendants filing this Answer and New Matter. To the best of my knowledge, information and belief, the statements made herein are true and correct. I am executing this Verification due to the unavailability of the Defendants at this time. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. 4904, relating to unsworn falsification to authorities.

JOHN R. RYAN, ESQUIRE

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IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION
No. 01 - 1059 - CD

COMMONWEALTH OF PENNSYLVANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER,
PLAINTIFF

VS.

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE,
DEFENDANTS

ANSWER AND NEW MATTER

NOTICE TO PLAINTIFF:
YOU are hereby notified that you are required to file an Answer to the within New Matter within twenty (20) days after service upon you or judgment may be entered against you.

John R. Ryan

JOHN R. RYAN, ESQUIRE, Attorney for Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

FILED
SEP 11 2001
10:03/6cc atty
William A. Shaw
Prothonotary
Ryan
Ekey

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

CERTIFICATE OF SERVICE

I, Thomas W. Creehan, do hereby affirm that I served the Amended Complaint and Petition for a Permanent Injunction upon Robert W. Fauls by hand delivering same on Thursday, August 30, 2001, at 2:59 P.M., at the Sheetz store located at the intersection of Route 119 and Route 322 in DuBois, Pennsylvania, also upon Richard L. Kerstetter by hand delivering same on Thursday, August 30, 2001, at 5:07 P.M., to his wife Shirley Kerstetter at their home located at 545 Treasure Lake, DuBois, Pennsylvania 15801.

Date: August 31, 2001

Thomas W. Creehan
Agent Supervisor

Sworn to and subscribed before me

this 31st day of August, 2001.

Denise J. Powers
Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

FILED NO CC
m/10:53 BL
SEP 13 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : REPLY TO NEW MATTER

FILED

SEP 19 2001

William A. Shaw
Prothonotary

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR ROBERT W. FAULS, RICHARD L. KERSTETTER AND RICKY A. PAPE

JOHN R. RYAN, ESQUIRE
COLAVECCHI, RYAN & COLAVECCHI
ATTORNEY I.D. NO. 38739
221 EAST MARKET STREET
P.O. BOX 131
CLEARFIELD, PA 16830
(814) 765-1566

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

REPLY TO NEW MATTER

AND NOW, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and files this Reply to New Matter contained in the Answer filed on behalf of defendants, Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape, and in support thereof respectfully represents the following:

96. Plaintiff incorporates by reference all of the allegations set forth in paragraphs 1 through 95 of the Amended Complaint and Petition for a Permanent Injunction which was filed on August 2, 2001.

97. After reasonable investigation plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment set forth in paragraph 97 of the defendants' new matter and, as such, the same is denied.

98. Admitted in part and denied in part. It is admitted that defendants, Fauls, Kerstetter and Pape are registered hearing aid fitters who give evaluations and fit hearing aids, after reasonable investigation plaintiff is without knowledge or information sufficient to form a belief as to the truth of the balance of the allegations contained in paragraph

98 of defendants' new matter and as such, the same are denied.

99. The allegations contained in paragraph 99 of defendants' new matter contain conclusions of law for which no responsive pleading is required.

WHEREFORE, plaintiff requests this Honorable Court to enter an Order granting the equitable and other relief prayed for in the Amended Complaint and Petition for a Permanent Injunction filed herein.

Date: September 18, 2001

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

AFFIDAVIT

I, Thomas W. Creehan, being duly sworn according to law, hereby state that I am Agent Supervisor for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of my knowledge, information and belief.

Thomas W. Creehan
Agent Supervisor

Sworn and subscribed to before me
this 18 day of September, 2001.

Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Reply to New Matter was forwarded on the 18th day of September, 2001, by U.S. mail, postage prepaid, to the following:

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

David J. Hopkins, Esquire
The Hopkins Law Firm
902 Beaver Drive
DuBois, Pennsylvania 15801

DATED: September 18, 2001

E. Barry Creany
Senior Deputy Attorney General

FILED

SEP 19 2001
01/130/noCC
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individualaly and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ORDER

NOW, this 15th day of November, 2001, following argument and briefs into Preliminary Objections filed on behalf of Defendant Marketing Specialists, Inc., it is the ORDER of this Court that the first Preliminary Objection alleging Plaintiff's failure to comply with Rule 400 and Rule 420 of Pennsylvania Rules of Civil Procedure regarding service of process shall be and is hereby dismissed. It is the further ORDER of this Court that with regards to Defendant's second Preliminary Objection in the nature of a demurrer, this Court being satisfied that Plaintiff has sufficiently alleged that the individual Defendants were acting in their capacity as employees of Marketing Specialists, Inc. at the time of the alleged violation, said second Preliminary Objection shall be and is hereby dismissed.

By the Court,

FILED
NOV 15 2001
William A. Shaw
Prothonotary

President Judge

FILED

NOV 15 2001

01 11:13 am

William A. Shaw

Prothonotary

1 cc atty Hopkins

1 cc atty Creany

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300, FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	Type of Pleading: Answer to Amended Complaint and Petition for a Permanent Injunction on behalf of Marketing Specialists, Inc. Filed on behalf of: Marketing Specialist, Inc. Counsel of Record for this party: DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED
DEC 14 2001
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ANSWER TO AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION ON BEHALF OF MARKETING SPECIALIST, INC.

AND NOW, comes Marketing Specialists, Inc., by and through its attorneys, The Hopkins Law Firm, and answers the Amended Complaint and Petition for Permanent Injunction as follows:

JURISDICTION AND VENUE

1. Admitted.

2. Admitted.

THE PARTIES

3. Admitted.

4. Admitted.

5. Admitted in part and denied in part. To the best knowledge, information

and belief of Answering Defendant, Joseph G. Pannette is an adult individual and a resident of the Commonwealth of Pennsylvania who engages in trade and commerce within the Commonwealth of Pennsylvania as a hearing aid fitter for Defendant Jones and is the business manager of M. E. Jones Hearing Instruments. Answering Defendant denies Joseph G. Pannette exercises control of M. E. Jones Hearing Instruments, Inc. under any assumed name or unregistered corporation or as a principal or agent of Marketing Specialists, Inc.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. No answer is required of this paragraph.

11. Denied. Defendant has not used nor is about to use methods, acts or practices declared unlawful by the Consumer Protection Law.

12. Denied. Answering Defendant has not engaged in unlawful methods, acts, practices or omissions nor has it acted in concert or participated in the commission or omission of the same as more fully set forth in this answer.

13. Denied. The public interest will not be served by granting a permanent injunction in as much as the actions of Defendant Marketing Specialists, Inc. are not improper or illegal for the reasons set forth in this Answer.

FACTUAL BACKGROUND

14. Admitted.

15. Admitted.

16. Admitted in part and denied in part. Defendant admits Joseph G. Pannette is the owner, president, officer and principal of Marketing Specialists, Inc. and has participated in the policies, practices and activities of Marketing Specialists, Inc. Marketing Specialists, Inc. denies it is involved in the acts and practices set forth in the Amended Complaint and therefore denies same.

17. Admitted in part and denied in part. Answering Defendant admits Joseph G. Pannette is vested with authority to make day to day decisions for M. E. Jones Hearing Instruments and participates in major business decisions for the company. Answering Defendant denies Pannette operates those capacities as an agent or principal of Marketing Specialists, Inc.

18. Neither admitted nor denied. After a reasonable investigation, Defendant is unable to admit or deny the allegations set forth in paragraph 18.

19. Admitted in part and denied in part. Answering Defendant admits Defendant Fauls is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendant denies Fauls is an employee of Marketing Specialists, Inc. However, Answering Defendant admits Fauls receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

20. Admitted in part and denied in part. Answering Defendant admits Defendant Kerstetter is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendant denies Kerstetter is an employee of Marketing Specialists, Inc. However, Answering Defendant admits Kerstetter receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

21. Admitted in part and denied in part. Answering Defendant admits Defendant Pape is a licensed hearing aid fitter and salesperson and acts as an agent of Defendant Jones in selling hearing aids to residents of the Commonwealth of Pennsylvania. Answering Defendant denies Pape is an employee of Marketing Specialists, Inc. However, Answering Defendant admits Pape receives a paycheck from Marketing Specialists, Inc. in as much as Marketing Specialists, Inc. handles the payroll of M. E. Jones Hearing Instruments.

22. Denied. The allegations set forth in paragraph 22 do not apply to this Defendant and no answer is required.

23. Denied. Answering Defendant denies the individuals set forth on Exhibit No. 2 are employees of Marketing Specialists, Inc.

24. Denied. Marketing Specialists, Inc. does not sell hearing aids to consumers.

25. Neither admitted nor denied. Answering Defendant is without knowledge to admit or deny the allegations set forth in paragraph 25. By way of further answer, Marketing Specialists, Inc. recognizes most people who buy hearing aids are over age 60.

26. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

27. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

28. Admitted in part and denied in part. Marketing Specialists, Inc. admits selling hearing aids to M. E. Jones Hearing Instruments. All other allegations are outside of the knowledge of Marketing Specialists, Inc. and are denied and strict proof at trial is demanded.

29. Denied. Marketing Specialists, Inc. sells to both M. E. Jones and other individuals or entities throughout the Commonwealth of Pennsylvania.

30. Admitted.

COUNT I – 30-DAY RETURN VIOLATIONS

31. No answer is required of this paragraph.

32. Admitted.

33. Neither admitted nor denied. The Hearing Aid Law, 35 P.S. §6700-503.1 speaks for itself and no answer is required of this Defendant.

34. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

35. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

36. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

37. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

38. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

39. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

40. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

41. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

42. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

43. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

44. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed by Defendant Marketing Specialists, Inc.

COUNT II – CANCELLATION FEE OVERCHARGES

45. No answer is required of this paragraph.

46. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

47. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

48. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

49. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

50. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

51. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed by Defendant Marketing Specialists, Inc.

COUNT III – CANCELLATION FEE PACKING

52. No answer is required.

53. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

54. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

55. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

56. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

57. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

58. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

59. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

60. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

61. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

62. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

63. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

64. For the reasons set forth herein, residents of the Commonwealth of Pennsylvania are not being harmed by Defendant Marketing Specialists, Inc.

COUNT IV – FAILURE TO HONOR 3-DAY CANCELLATIONS

65. No answer is required of this paragraph.

66. Admitted.

67. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers nor does Marketing Specialists, Inc. handle complaints from retail customers.

68. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers nor does Marketing Specialists, Inc. handle complaints from retail customers.

69. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers nor does Marketing Specialists, Inc. handle complaints from retail customers.

70. Denied. For the reasons set forth in this Answer, residents of the Commonwealth of Pennsylvania are not being harmed by Defendant Marketing Specialists, Inc.

COUNT V – SONGBIRD CANCELLATION VIOLATIONS

71. No answer is required of this paragraph.

72. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

73. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

74. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

75. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

76. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

77. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. By way of further answer, Marketing Specialists, Inc. does not manufacture the Songbird disposable hearing aid.

78. Denied. Marketing Specialists, Inc. undertakes no action which can be classified as unlawful and in violation of the Consumer Protection Law.

COUNT VI - MISREPRESENTATION

79. No answer is required of this paragraph.

80. Denied. Marketing Specialists, Inc. has not applied to the Department of Health to obtain Certificates of Registration for branch offices.

81. Denied. Marketing Specialists, Inc. does not operate branch offices.

82. Denied. Marketing Specialists, Inc. does not operate branch offices.

83. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. Marketing Specialists, Inc. does not operate branch offices.

84. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. Marketing Specialists, Inc. does not operate branch offices.

85. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers. Marketing Specialists, Inc. does not operate branch offices.

86. Denied. Marketing Specialists, Inc. is undertaking no activity which can be classified as unlawful or in violation of the Consumer Protection Law.

87. Denied. For the reasons set forth herein, no residents of the Commonwealth of Pennsylvania are being harmed.

COUNT VII – DEFECTIVE RECEIPTS

88. No answer is required of this paragraph.

89. Admitted.

90. Denied. Marketing Specialists, Inc. does not sell or manufacture the Songbird hearing aid.

91. No answer is required of this paragraph. The Hearing Aid Law says what it says.

92. Denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

93. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

94. No answer is required of this paragraph inasmuch as it calls for a legal conclusion. To the extent an answer is required, then same is denied. Marketing Specialists, Inc. does not sell hearing aids to retail customers.

95. Denied. For the reasons set forth herein, no resident of the Commonwealth of Pennsylvania are being harmed by Defendant Marketing Specialists, Inc.

WHEREFORE, Defendant Marketing Specialists, Inc. demand judgment dismissing Plaintiff's Amended Complaint with prejudice in total and award cost of suit to Marketing Specialists, Inc. and such other relief as the Court deems fair, just and equitable.

NEW MATTER

96. Defendant incorporates all of the allegations set forth in the preceding paragraphs as if set forth at length herein.

97. The claims of Plaintiff are barred inasmuch as the actions of Defendant have been authorized by the Commonwealth of Pennsylvania, Department of Health.

98. The claims of Plaintiff are barred inasmuch as all of the activities complained are industry standards used throughout the Commonwealth of Pennsylvania in the hearing aid industry.

99. The claims of Plaintiff are barred by Plaintiff's failure to communicate with the Defendant.

100. The claims of Plaintiff are barred inasmuch as the statute is vague and unenforceable.

101 The claims of the Commonwealth are barred inasmuch as the statute relied upon by the Commonwealth of Pennsylvania is void.

102. Violations by the Defendant are minor violations for which a penalty is not appropriate.

103. The claims of the Commonwealth are barred inasmuch as actions by Defendant's agents have been outside of the scope of their employment and training.

104. Marketing Specialists, Inc. is a manufacturer of hearing aids and does not sell hearing aids to the retail public.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by twelve jurors on all issues presented herein.

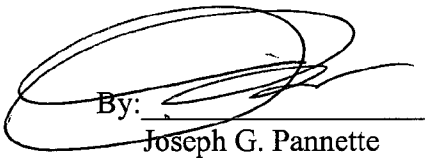
Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

VERIFICATION

I am President of Marketing Specialists, Inc. and I am authorized to execute this Verification. I hereby verify that the statements made in this pleading are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Marketing Specialists, Inc.



By: _____
Joseph G. Pannette

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Amended Complaint and Petition for a Permanent Injunction, filed on behalf of Marketing Specialists, Inc., was forwarded on the 13th day of December, 2001, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,

David J. Hopkins, Esquire

FILED

DEC 14 2001

William A. Shaw
Prothonotary

01:21:91 cc atty Hopkins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
ACTING BY ATTORNEY GENERAL
D. MICHAEL FISHER,
Plaintiff

Vs.

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE,
Defendants

CIVIL DIVISION

No. 01 - 1059 - CD

VERIFICATION

Filed on Behalf of:

Defendants, ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE

Counsel of Record for This Party:

JOHN R. RYAN, ESQUIRE
Pa. I.D. #38739

COLAVECCHI RYAN & COLAVECCHI
221 East Market Street
P. O. Box 131
Clearfield, PA 16830

814/765-1566

FILED

DEC 19 2001

William A. Shaw
Prothonotary

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

VERIFICATION

We verify that the statements made in this Answer to Amended Complaint and Petition for a Permanent Injunction, and New Matter, are true and correct. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S. 4904, relating to unsworn falsification to authorities.

ROBERT W. FAULS

RICHARD L. KERSTETTER

RICKY A. PAPE

LAW OFFICES OF
COLAVECCHI
RYAN & COLAVECCHI
221 E. MARKET ST.
(ACROSS FROM
COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
CIVIL DIVISION
No. 01 - 1059 - CD

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER,

Plaintiff

vs.

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS AND JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE,

Defendants

VERIFICATION

FILED

DEC 19 2001

3/10:20 a.m.
William A. Shaw
Prothonotary

3 cc to atty

COLAVECCHI
RYAN & COLAVECCHI
ATTORNEYS AT LAW
221 EAST MARKET STREET
(ACROSS FROM COURTHOUSE)
P. O. BOX 131
CLEARFIELD, PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : REPLY TO NEW MATTER

FILED

DEC 21 2001

William A. Shaw
Prothonotary

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
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(814) 471-1831

COUNSEL FOR MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS, ESQUIRE
THE HOPKINS LAW FIRM
ATTORNEY I.D. NO. 42519
900 BEAVER DRIVE
DUBOIS, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

REPLY TO NEW MATTER

AND NOW, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and files this Reply to New Matter and in support thereof respectfully represents the following:

96. Plaintiff incorporates by reference all of the allegations set forth in paragraphs 1 through 95 of the Amended Complaint and Petition for a Permanent Injunction which was filed on August 2, 2001.

97. The statement made in paragraph 97 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that the Commonwealth of Pennsylvania, Department of Health authorized defendants' violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction and strict proof of such claim of authorization is demanded at the time of trial.

98. The statement made in paragraph 98 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an

answer is required, plaintiff denies that the patterns, methods, acts and practices of the defendants which gave rise to violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction constitute "industry standards" in the hearing aid industry. By way of further reply, the plaintiff asserts that claims for violations of the Consumer Protection Law are never barred by patterns, methods, acts or practices that likewise violate the Consumer Protection Law which are undertaken by any individual or groups which are similarly situated to the defendants.

99. The statement made in paragraph 99 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that it has failed to meet any duty to "communicate with Defendant" or that any such action or omission by the plaintiff is a bar to claims for violations of the Consumer Protection Law as alleged in the Amended Complaint and Petition for a Permanent Injunction.

100. The statement made in paragraph 100 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff asserts that the defendants' reference to "the statute" in paragraph 100 of their new matter is vague in that it does not identify the statute which defendants claim to be vague and unenforceable. In that the claims made in this matter were brought pursuant to the Consumer Protection Law the plaintiff asserts that said Consumer Protection Law is not vague and is enforceable. Further, to the extent that defendants are challenging the constitutionality of the Consumer Protection Law or any statute, the plaintiff asserts that defendants have not properly raised any such claims relating to the constitutionality of said statutes.

101. The statement made in paragraph 101 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff asserts that the defendants' reference to "the statute" in paragraph 101 of their new matter is vague in that it does not identify the statute

which defendants claim as void. In that the claims made in this matter were brought pursuant to the Consumer Protection Law the plaintiff asserts that said Consumer Protection Law is not void. Further, to the extent that defendants are challenging the constitutionality of the Consumer Protection Law or any statute, the plaintiff asserts that defendants have not properly raised any such claims relating to the constitutionality of said statutes.

102. Admitted in part and denied in part. Plaintiff admits that defendants have engaged in violations of the Consumer Protection Law. Plaintiff denies that any of the violations of the Consumer Protection Law engaged in by the defendants are minor in nature and assert that equitable relief in the form of an injunction, restitution for any affected consumers, the assessment of civil penalties and costs and other equitable relief prayed for in the Amended Complaint and Petition for a Permanent Injunction are warranted in this action.

103. The statement made in paragraph 103 of the defendants' new matter contains conclusions of law for which no responsive pleading is required. Inasmuch as an answer is required, plaintiff denies that the claims for violations of the Consumer Protection Law raised by the plaintiff in the Amended Complaint and Petition for a Permanent Injunction are barred by any acts of defendants' agent. Further, plaintiff asserts that defendants are fully responsible for the supervision and control of their agents and are directly or indirectly liable for the acts or admissions of any such agents which occur in the course of the employment relationship.

104. After reasonable investigation plaintiff is without knowledge or information sufficient to form a belief as to the truth of the averment set forth in paragraph 104 of defendant's New Matter and, as such, the same is denied.

REPLY TO DEMAND FOR JURY TRIAL

Defendant's "Demand for Jury Trial" asserts that "Plaintiffs demand a trial by twelve jurors on all issues presented herein." Plaintiff, Commonwealth of Pennsylvania, does not demand a jury

trial as set forth by defendants in their new matter. Further, the plaintiff asserts that the Amended Complaint and Petition for a Permanent Injunction was filed as an Action in Equity and that pursuant to Rule 1513 of the Pennsylvania Rules of Civil Procedure trial by jury in equity matters is a matter that is fully within the discretion of the Court. Specifically, the Court may permit impaneling of an advisory jury to examine specific issues of fact. The plaintiff would not oppose the impaneling of such a jury provided all costs associated with the same are assessed against the defendants.

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

AFFIDAVIT

I, Thomas W. Creehan, being duly sworn according to law, hereby state that I am in excess of eighteen (18) years of age and that I am the Agent Supervisor for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Reply to New Matter are true and correct to the best of my knowledge, information and belief.

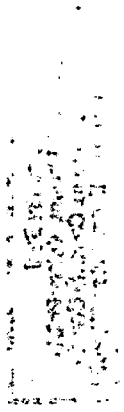
Thomas W. Creehan
Agent Supervisor

Sworn and subscribed to before me
this 19 day of December, 2001.

Notary Public

Notarial Seal
Denise J. Powers, Notary Public
Ebensburg Boro, Cambria County
My Commission Expires Nov. 18, 2002





FILED

DEC 2 1 2001

10:50 a.m.

William A. Shaw
Prothonotary

no cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Reply to New Matter was forwarded on the 19th day of December, 2001, by U.S. mail, postage prepaid, to the following:

David J. Hopkins, Esquire
The Hopkins Law Firm
902 Beaver Drive
DuBois, Pennsylvania 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

DATED: December 19, 2001

E. Barry Creany
Senior Deputy Attorney General

FILED

DEC 21 2001

William A. Shaw
Prothonotary

FILED
DEC 2 1 2001
m/10:50 a.m.
William A. Shaw
Prothonotary
no. cc

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : **MOTION TO COMPEL DISCOVERY**

FILED

JAN 08 2002

William A. Shaw
Prothonotary

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS MARK E. JONES, JOSEPH G. PANNETTE AND MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS
THE HOPKINS LAW FIRM
900 BEAVER DRIVE
DUBOIS, PA 15801
ATTORNEY I.D. NO. 42519
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

MOTION TO COMPEL DISCOVERY

Plaintiff, the Commonwealth of Pennsylvania hereby moves the Court to enter an Order pursuant to Pennsylvania Rule of Civil Procedure No. 4019 compelling Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. to answer the Plaintiff's First Set of Interrogatories and Requests for Production of Documents in this matter. In support of this Motion, plaintiff avers the following:

1. This action was commenced by the filing of a Complaint on July 3, 2001. On November 5, 2001, plaintiff served its First Set of Interrogatories and Requests for Production of Documents to Mark E. Jones, its First Set of Interrogatories and Requests for Production of Documents to Joseph G. Pannette and its First Set of Interrogatories and Requests for Production of Documents to Marketing Specialists, Inc. True and correct copies of letters from counsel for the plaintiff to counsel for defendants dated November 1, 2001, along with certified mail receipts and acknowledgment cards are attached hereto and labeled Group Exhibit "A".

2. Pursuant to Pa.R.C.P. Nos. 4006(2) and 4009.12, defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. were obligated to provide answers to Interrogatories and responses to Requests for Production of Documents on or before December 6, 2001, however, said defendants failed to provide responses to Interrogatories or the Requests for Production of Documents.

3. By letter dated December 6, 2001, counsel for plaintiff notified counsel for defendants that his clients' responses to Interrogatories and Requests for Production of Documents were past due, requested counsel for the defendants to provide the same at his earliest convenience, and notified counsel for the defendants that if they failed to provide the same, a Motion to Compel Discovery would be filed. A true and correct copy of plaintiff's letter to David J. Hopkins, Esquire, dated December 5, 2001, along with the certified mail receipt and acknowledgment card are attached hereto and labeled Group Exhibit "B".

4. Although more than sixty (60) days have lapsed since service of Interrogatories and Requests for Production of Documents upon defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., no responses of any kind hereto have been received, nor has counsel for the defendants communicated with counsel for plaintiff or otherwise indicated that responses would be forthcoming.

5. Plaintiff requests this Honorable Court to enter an Order pursuant to Pa.R.C.P. No. 4019(a)(a)(i)(vii) compelling defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. to answer said Interrogatories and respond to the Requests for Production of Documents within twenty (20) days or suffer further sanctions of this Court.

WHEREFORE, plaintiff requests this Honorable Court to enter an Order compelling defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. to provide plaintiff with full and complete answers and responses to the plaintiff's First Set of Interrogatories and

Requests for Production of Documents or suffer appropriate sanctions to be imposed upon application to the Court.

DATE: January 7, 2002

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

E. Barry Creany hereby certifies that on the 7th day of January, 2002, true and correct copies of the foregoing Motion to Compel Discovery and proposed Order was served upon the Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., via first class U.S. mail by sending a true and correct of the same to the following:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

E. Barry Creany

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Mark E. Jones. Please have your client, Mark E. Jones, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

Enclosures

Group Exhibit "A"

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 4725 3615

Postage	$ 3.10
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.60
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$6.70

EBENSBURG PA Postmark Here NOV 02 2001 USPS 15931 ME JONES

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins/THE HOPKINS LAW FIRM
Street, Apt. No.; or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME JONES

1. Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Margaret Hopkins B. Date of Deliver 11/5/01

C. Signature
X ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*
7000 0600 0024 4725 3615

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Marketing Specialists, Inc. Please have your client, Joseph G. Pannette or an appropriate corporate designee, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosures

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 4725 3639

Postage	$ 3.10
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.70

Postmark Here: EBENSBURG PA NOV 02 2001 USPS - 15931 ME PANNETTE

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins, Esq. - HOPKINS LAW FIRM
Street, Apt. No.; or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME PANNETTE

1. Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*: Margaret Hopkins — B. Date of Delivery: 11/05/01

C. Signature: X — ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)*
7000 0600 0024 4725 3639

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-99-M-1789

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette. Please have your client, Joseph G. Pannette, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosures

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 4725 3622

Postage	$ 2.18
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$5.78

Postmark Here: USPS 15937 EBENSBURG NOV 02 2001 THE MARKETING

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins, Esq. / THE HOPKINS LAW FIRM
Street, Apt. No.; or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
Print your name and address on the reverse so that we can return the card to you.
Attach this card to the back of the mailpiece, or on the front if space permits. ME MARKETING

Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)*: Margaret Hopkins — B. Date of Delivery: 11/5/01

C. Signature: X — ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

Article Number *(Copy from service label)*
7000 0600 0024 4725 3622

Form 3811, July 1999 — Domestic Return Receipt — 102595-99-M-1789

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

December 6, 2001

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

On November 5 the Plaintiff's First Set of Interrogatories and Requests for Production of Documents addressed to Defendant Joseph G. Pannette and the set directed to Mark E. Jones were served upon you. Replies to those discovery requests are now due. Please promptly return the completed interrogatories with documents at your earliest convenience. If I do not receive anything from you within the week, I will proceed accordingly with a Motion to Compel Discovery.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Group Exhibit "B"

7000 0600 0024 4725 4353

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ .34
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 3.94

EBENSBURG PA
DEC 07 2000
Postmark Here
USPS - 1593

ME JONES

Recipient's Name (Please Print Clearly) (to be completed by mailer) David J. Hopkins, Esq. / Hopkins Law Firm
Street, Apt. No., or PO Box No. 900 Beaver Drive
City, State, ZIP+4 DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME JONES

1. Article Addressed to:

David J. Hopkins, Esq.
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Margaret Hopkins — B. Date of Delivery 12-7-00

C. Signature — X [signature] — ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 4725 4353

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-00-M-0952

FILED

JAN 08 2002

m/10:39/noccc

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY
	: NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

ORDER

AND NOW, this 14th day of January, 2002, it is hereby ORDERED AND DECREED that Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. shall provide Plaintiff with full and complete answers and responses to the Plaintiff's First Set of Interrogatories and Requests for Production of Documents within twenty (20) days of this Order or suffer further sanctions of this Court.

BY THE COURT,

J.

FILED

JAN 15 2002
011:00a Cc Cathy Creary
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette, filed on behalf of Joseph G. Pannette, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

FILED

FEB 08 2002
013.05/nocc
William A. Shaw
Prothonotary

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette, filed on behalf of Joseph G. Pannette, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

FILED

FEB 08 2002

013:05/noCC
William A. Shaw
Prothonotary

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

THE HOPKINS LAW FIRM
900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Mark Jones, filed on behalf of Mark Jones, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

FILED

FEB 08 2002
013:05/noCC
William A. Shaw
Prothonotary

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION FOR SANCTIONS**

FILED

MAR 07 2002

William A. Shaw
Prothonotary

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS MARK E. JONES, JOSEPH G. PANNETTE AND MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS
THE HOPKINS LAW FIRM
900 BEAVER DRIVE
DUBOIS, PA 15801
ATTORNEY I.D. NO. 42519
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

MOTION FOR SANCTIONS

Plaintiff, the Commonwealth of Pennsylvania hereby moves this Court to enter an Order pursuant to Pennsylvania Rule of Civil Procedure No. 4019 entering appropriate sanctions against defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. for their failure to provide sufficient answers to Plaintiff's First Set of Interrogatories and Requests for Production of Documents in this matter. In support of this Motion, plaintiff avers the following:

1. On November 5, 2001, plaintiff served its First Set of Interrogatories and Requests for Production of Documents to Mark E. Jones, its First Set of Interrogatories and Requests for Production of Documents to Joseph G. Pannette and its First Set of Interrogatories and Requests for Production of Documents to Marketing Specialists, Inc. True and correct copies of letters to David J. Hopkins, Esquire, counsel for defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. (hereinafter referred to in this Motion as "counsel for defendants") dated November 1, 2001, along with certified mail receipts and acknowledgment cards are attached

hereto and labeled Group Exhibit "A".

2. Pursuant to Pa.R.C.P. Nos. 4006(2) and 4009.12, defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. were obligated to provide answers to Interrogatories and responses to Requests for Production of Documents on or before December 6, 2001, however, said defendants failed to provide responses to Interrogatories or the Requests for Production of Documents.

3. By letter dated December 6, 2001, plaintiff notified counsel for defendants that his clients' responses to Interrogatories and Requests for Production of Documents were past due, requested counsel for the defendants to provide the same at his earliest convenience, and notified counsel for the defendants that if they failed to provide the same, a Motion to Compel Discovery would be filed. A true and correct copy of plaintiff's letter to David J. Hopkins, Esquire, dated December 6, 2001, along with the certified mail receipt and acknowledgment card are attached hereto and labeled Group Exhibit "B".

4. When said defendants failed to provide any responses to the Interrogatories and Requests for Production of Documents after receipt of the plaintiff's letter of December 6, 2001, the plaintiff filed a Motion to Compel Discovery on January 8, 2002.

5. By Order of The Honorable John K. Reilly, Jr., dated January 14, 2002, defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. were ordered "to provide plaintiff with full and complete answers and responses to the Plaintiff's First Set of Interrogatories and Requests for Production of Documents in twenty (20) days" or suffer further sanctions of this Court.

6. Pursuant to this Honorable Court's Order, defendants were required to produce full and complete answers on February 4, 2002.

7. On February 5, 2002, plaintiff received a letter from counsel for the defendants indicating that defendants needed an extension within which to respond to discovery. By response letter dated February 5, 2002, plaintiff notified defendants of its

objection to continued delays because of the previous lengthy delays caused by defendants. Nonetheless, plaintiff agreed to withhold filing a Motion for Sanctions if defendants provided a full and complete response by Friday, February 8, 2002. True and correct copies of the letter of counsel for defendants dated February 4, 2002, and letter of counsel for plaintiff dated February 5, 2002, are attached hereto and labeled Exhibit "C".

8. On February 8, 2002, counsel for the defendant faxed the plaintiff a letter indicating that answers to interrogatories and requests for production of documents were enclosed. With said letter counsel for defendants faxed partial responses to interrogatories of defendants Mark E. Jones and Marketing Specialists, Inc., however, the responses to interrogatories for Joseph G. Pannette were not provided. Further, no documents were faxed with the letter of defendants' counsel.

9. On February 11, 2002, the plaintiff received a box containing the partial responses to interrogatories of defendants Mark E. Jones and Marketing Specialists, Inc. and numerous documents, however, the same did not include a reply to interrogatories on behalf of defendant Joseph G. Pannette. Counsel for the plaintiff notified defendants' counsel of the failure to provide the Pannette responses to interrogatories. Counsel for defendants provided the Pannette responses to interrogatories on February 13, 2002.

10. By letter dated February 19, 2002, plaintiff notified counsel for defendants that upon review of the answers to interrogatories and the documents produced it was apparent that numerous deficiencies existed and requested the opportunity to meet later that week in an effort to work toward an agreement for addressing the deficiencies. True and correct copy of said letter is attached hereto and labeled Exhibit "D". Counsel for defendants did not respond to said letter until February 26, 2002.

11. In violation of the Court's Order of January 14, 2002, defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. failed to provide full and complete answers and responses to the Plaintiff's First Set of Interrogatories and

Requests for Production of Documents. Specifically, defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. have failed to answer interrogatories and produce documents as more fully set forth on the schedules of deficiencies which are attached hereto and labeled Group Exhibit "E" and made a part hereof.

12. Plaintiff has supplied counsel for defendants with copies of the schedules attached as Group Exhibit "E". As of the date of this Motion, counsel for defendants have not provided answers to interrogatories or the documents identified in said schedules.

WHEREFORE, plaintiff requests this Honorable Court to schedule a hearing after March 15, 2002, and, upon consideration of the evidence presented therein, enter an Order finding defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. in contempt of court for violation of this Court's Order of January 14, 2002, pursuant to Pa. R.C.P. No. 4019(c)(4). It is requested that said Order indicate that defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. can purge themselves of contempt by providing full and complete answers and responses to the Plaintiff's First Set of Interrogatories and Requests for Production of Documents by a date certain and by reimbursing the plaintiff for the expenses and attorney's fees incurred in bringing this Motion for Sanctions.

DATE: March 6, 2002

Respectfully submitted,

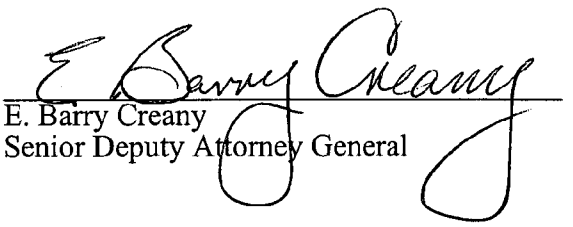
E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

E. Barry Creany hereby certifies that on the 6th day of March, 2002, true and correct copies of the foregoing Motion for Sanctions and proposed Order was served upon the defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., via first class U.S. mail by sending a true and correct of the same to the following:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830



E. Barry Creany
Senior Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Mark E. Jones. Please have your client, Mark E. Jones, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosures

Group Exhibit "A"

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

7000 0600 0024 4725 3615

Postage	$ 3.10
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.60
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.80

DUBOIS PA 15801 NOV 02 2001 USPS

Postmark Here

ME JONES

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins/THE HOPKINS LAW FIRM
Street, Apt. No.; or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME JONES

1. Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Margaret Hopkins B. Date of Delivery 11/5/01

C. Signature X ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 4725 3615

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-99-M-1789

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette. Please have your client, Joseph G. Pannette, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

Enclosures

7000 0600 0024 4725 3639

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ 3.10
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 6.70

EBENSBURG PA
Postmark Here
NOV 02 2001
USPS - ME PANNETTE

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins, Esq. / HOPKINS LAW FIRM
Street, Apt. No., or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME PANNETTE

1. Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Margaret Hopkins — B. Date of Delivery 11/05/01

C. Signature
X ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 4725 3639

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-99-M-1789

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

November 1, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a an original and two copies of the Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Marketing Specialists, Inc. Please have your client, Joseph G. Pannette or an appropriate corporate designee, complete and return these interrogatories and the documents requested in accordance with the Pennsylvania Rules of Civil Procedure.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosures

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

2295 5274 4200 0006 2002

Postage	$ 2.18
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$5.78

USPS 15993 EBENSBURG NOV 02 2001 Postmark Here THE MARKETING

Recipient's Name (Please Print Clearly) (to be completed by mailer)
David J. Hopkins, Esq. THE HOPKINS LAW FIRM
Street, Apt. No.; or PO Box No.
900 Beaver Drive
City, State, ZIP+4
DuBois, PA 15801

PS Form 3800, February 2000 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME MARKETING

1. Article Addressed to:

David J. Hopkins, Esq.
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Margaret Hopkins B. Date of Delivery 11/5/01

C. Signature X ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label) 7000 0600 0024 4725 3622

PS Form 3811, July 1999 Domestic Return Receipt 102595-99-M-1789

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

December 6, 2001

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

On November 5 the Plaintiff's First Set of Interrogatories and Requests for Production of Documents addressed to Defendant Joseph G. Pannette and the set directed to Mark E. Jones were served upon you. Replies to those discovery requests are now due. Please promptly return the completed interrogatories with documents at your earliest convenience. If I do not receive anything from you within the week, I will proceed accordingly with a Motion to Compel Discovery.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

Group Exhibit "B"

7000 0600 0024 4725 4353

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

Postage	$ .34
Certified Fee	2.10
Return Receipt Fee (Endorsement Required)	1.50
Restricted Delivery Fee (Endorsement Required)	L
Total Postage & Fees	$ 3.94

EBENSBURG PA
DEC 07 200
Postmark Here
USPS - 1593

ME JONES

Recipient's Name (Please Print Clearly) (to be completed by mailer) David J. Hopkins, Esq. / Hopkins Law Firm
Street, Apt. No., or PO Box No. 900 Beaver Drive
City, State, ZIP+4 DuBois, PA 15801

PS Form 3800, February 2000 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits. ME JONES

1. Article Addressed to:

David J. Hopkins, Esq.
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Received by *(Please Print Clearly)* Margaret Hopkins — B. Date of Delivery 12/6/01

C. Signature
X [signature] ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

12/6/01

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Copy from service label)* 7000 0600 0024 4725 4353

PS Form 3811, July 1999 — Domestic Return Receipt — 102595-00-M-0952

THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkins@penn.com

RECEIVED
FEB - 5 2002
Office of Attorney General

February 4, 2002

Facsimile: 814-949-7942

Mr. E. Barry Creany
Senior Deputy Attorney General
Commonwealth of Pennsylvania
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Re: Commonwealth v. M. E. Jones Hearing Instruments, et al.
No. 01-1059 C.D.

Dear Mr. Creany:

Mr. Jones and Mr. Pannette were in my office Friday to complete the discovery request you have propounded. This afternoon they produced a box full of supporting materials pursuant to your Request for Production of Documents. It is going to take me a night or two to work through the box. I will forward answers to your discovery to your office no later than Thursday. If you have an objection to this delay, please contact me. Otherwise, I will assume this time frame is acceptable to you.

Thank you in advance for your anticipated courtesy in this matter.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

Group Exhibit "C"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: FACSIMILE AND REGULAR MAIL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

February 5, 2002

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

I just received your letter of February 4, 2002, in this morning's mail. As was noted in the Motion to Compel filed last month, this discovery request was served upon you on November 5, 2001 and was due in December. Judge Reilly's Order of January 14, 2002, required your client to file answers to the discovery requests within 20 days. That 20-day period lapsed yesterday. When your clients wait until the Friday before the Court-ordered discovery is due (60 days after discovery was due as a matter of course) I do have an objection to any continued delays. Had there been a good reason for a further extension I would have been glad to grant the same. However, I do not feel it is reasonable for you to wait until after the Court Order had been violated in order to contact me to request an extension. I have already invested additional time in this case preparing a Motion for Sanctions which will be filed with the Court on Friday, February 8, 2002, unless we receive full and complete responses to the Interrogatories and Requests for Production of Documents that were served upon Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: FACSIMILE AND REGULAR MAIL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

February 19, 2002

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

On February 11th I received a box containing a number of documents and replies to interrogatories and requests for production of documents from defendant, M.E. Jones and defendant, MSI. The reply of Joseph G. Pannette had not been included, however, upon request you have now provided that reply.

Now that I have had an opportunity to review the information provided, it is clear that the replies to the interrogatories and the requests for production of documents are not anywhere near complete and there is no indication of any intent to supplement. The deficiencies are so extensive that I cannot possibly enumerate on all of them in the context of this letter. However, an example in the Jones and Pannette deficiencies include Interrogatory No. 22 where I asked for an explanation of the fitting procedure and process for and all costs associated with the sale of the Songbird disposable hearing aid. The reply merely states "all testing required by the Commonwealth of Pennsylvania" is performed and mentions a machine which enables a customer to sample the various types of Songbird hearing aids. With respect to MSI, Document Request No. 3 asks for 1999 and 2000 tax returns. Your client failed to produce a tax return covering the year 2000. In addition MSI Interrogatory Reply No. 8 gives the names of six material suppliers but does not provide any addresses or phone numbers to enable us to follow up with those suppliers.

Exhibit "D"

I feel confident that you would not be satisfied if you received discovery replies as incomplete as the ones your clients have produced. Further, I do not believe that the courts would endorse such deficient discovery, especially in cases where the same is being provided pursuant to a Motion to Compel Order. Nonetheless, I do not consider it to be appropriate to civil practice to run into court to seek imposition of sanctions without first attempting a good faith effort to sit down, discuss and work out or at least narrow the scope of any discovery problems.

Therefore, I would propose that we schedule a meeting to go over the replies to interrogatories and documents that your clients have produced for the purpose of working toward an agreement for supplementing the deficiencies that exist. If you are willing to participate in such a meeting, I would be willing to meet you half way by scheduling the same at our State College Office anytime on Thursday, February 21, or Friday, February 22. If you or your associate are not able to meet at the end of this week, I would be willing to work out a time for the meeting on Monday, February 25, but I do not want to delay beyond that point because of the long delays that have already been occasioned by your clients' failure to respond to this discovery requests when they were first served upon them. It is my hope that a meeting later this week could lead to resolution of this dispute with your clients providing full and complete responses to the discovery by March 6, 2002 (60 days beyond their original due date, and a month after Judge Reilly ordered their production).

Please contact me immediately to let me know when you would be available to meet later this week in an effort to work out this discovery dispute. If I do not hear from you this week, I will prepare a Motion for Sanctions to have this matter addressed by the Court.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

DEFICIENCIES IN THE RESPONSE OF MARK E. JONES

INTERROGATORY

NO. 3 - The percentage of any commissions earned by Jones is not identified.

NO. 4 - Fails to specify the scope of any responsibility or authority and the relevant time frames for Mark E. Jones and Joseph G. Pannette.

NO. 5 - Fails to "identify" the "various manufacturers and professional consultants" that have provided training services to M.E. Jones Hearing Instruments. (See, definition of "identify".)

NO. 9 - Fails to identify "counsel who provided assistance to Jones and Pannette".

NO. 10 - Fails to identify "counsel who provided assistance to Jones".

NO. 13 - No schedule was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the fitting/dispensing fee.

NO. 15 - No chart was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the impression fee.

NO. 17 - No chart was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the cancellation fee.

NO. 22 - Failed to explain the fitting procedure or process for and identify all costs associated with the sale of Songbird disposable hearing aids.

DOCUMENT REQUESTS

NO. 9 - Failed to provide any correspondence to or from those consumers who canceled transactions along with other documents such as receipts or any evidence of refunds paid.

NO. 10 - Failed to attach "suggested retail price" document.

Group Exhibit "E"

DEFICIENCIES IN THE RESPONSE OF JOSEPH G. PANNETTE

INTERROGATORY

NO. 4 - Fails to specify the scope of any responsibility or authority and the relevant time frames for Mark E. Jones and Joseph G. Pannette.

NO. 5 - Fails to "identify" the "various manufacturers and professional consultants" that have provided training services to M.E. Jones Hearing Instruments. (See, definition of "identify".)

NO. 7 - Fails to specify the involvement of Pannette and Pape in the use of, creation of, or modification of the contracts, agreements or other documents used by M.E. Jones Hearing Instruments.

NO. 9 - Fails to identify "counsel who provided assistance to Jones and Pannette".

NO. 10 - Fails to identify "counsel who provided assistance to Pannette".

NO. 13 - No schedule was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the fitting/dispensing fee.

NO. 15 - No chart was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the impression fee.

NO. 17 - No chart was attached setting forth any information about how sellers of M.E. Jones Hearing Instruments determine the amount of the cancellation fee.

NO. 22 - Failed to explain the fitting procedure or process for and identify all costs associated with the sale of Songbird disposable hearing aids.

DOCUMENT REQUESTS

NO. 9 - Failed to provide any correspondence to or from those consumers who canceled transactions along with other documents such as receipts or any evidence of refunds paid.

NO. 10 - Failed to attach "suggested retail price" document.

DEFICIENCIES IN THE RESPONSE OF MARKETING SPECIALISTS, INC.

INTERROGATORY

NO. 6 - Fails to identify all products and services that Marketing Specialists, Inc. provided to M.E. Jones Hearing Instruments by providing any specific information as to the nature as to any hearing aids which Marketing Specialists, Inc. has provided to M.E. Jones Hearing Instruments.

NO. 8 - Fails to provide necessary information on the suppliers of raw materials used by Marketing Specialists, Inc. ("identify" requires that defendant Marketing Specialists, Inc. provide addresses for those parties who supply any of the raw materials used by Marketing Specialists, Inc. in manufacturing any hearing aids or accessories.

NO. 10 - Defendant's 1998 and 1999 tax returns do not identify the total amount of revenue Marketing Specialists, Inc. received from M.E. Jones Hearing Instruments for hearing aids or accessories.

NO. 11 - Defendant's 1998 and 1999 tax returns do not identify the total amount of revenue Marketing Specialists, Inc. received from M.E. Jones Hearing Instruments for any services.

DOCUMENT REQUESTS

NO. 3 - Marketing Specialists, Inc. failed to produce its 2000 tax return.

NO. 4 - "Suggested retail price list" was not attached.

NO. 5 - Attached tax returns that were provided do not provide information as to the "total number of hearing aids or accessories" that were sold by Marketing Specialists, Inc.

NO. 7 - Attached tax returns that were provided do not provide relevant information as to revenues for the sale of hearing aids or accessories to M.E. Jones Hearing Instruments.

NO. 8 - Attached tax returns that were provided do not provide relevant information as to revenues for any services to M.E. Jones Hearing Instruments.

NO. 9 - Fails to give any information regarding the disposition of hearing aids or accessories that were returned to M.E. Jones Hearing Instruments despite the fact that other documents produced establish that some consumers canceled contracts and returned hearing aids within thirty (30) days of receipt of the same.

FILED

MAR 07 2002
m/1035/nocc
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION FOR SANCTIONS**

ORDER

This 5th day of March, 2002, upon consideration of plaintiff's Motion for Sanctions, a hearing on the same is scheduled for April 25, 2002, at 10:00 A.M., in Courtroom No. 1 at the Clearfield County Courthouse.

BY THE COURT

P.J.

FILED

MAR 08 2002

William A. Shaw
Prothonotary

cc Dep. Atty General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA:
ACTING BY ATTORNEY GENERAL :
D. MICHAEL FISHER :
:
-vs- : No. 01 – 1059 – CD
:
MARK E. JONES, individually and d/b/a :
M.E. JONES HEARING INSTRUMENTS :
and JOSEPH G. PANNETTE, individually :
and d/b/a J.G. PANNETTE MARKETING :
SPECIALISTS, INC., and MARKETING :
SPECIALISTS, INC. and ROBERT W. :
FAULS, RICHARD L. KERSTETTER :
and RICKY A. PAPE :

FILED

APR 26 2002

William A. Shaw
Prothonotary

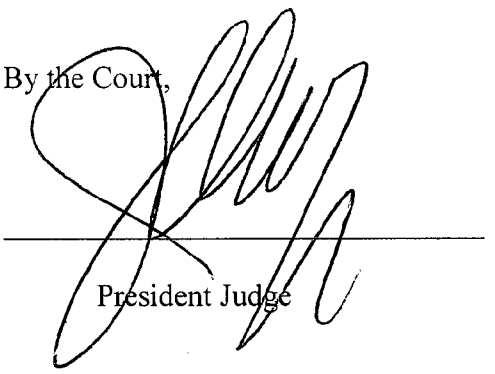
ORDER

NOW, this 25th day of April, 2002, upon consideration of Motion for Sanctions filed on behalf of Plaintiff above-named, it is the ORDER of this Court that said Motion be and is hereby granted to the extent that Defendant Jones and Pannette shall respond as follows: First, Defendant Mark E. Jones shall provide documentation as to how he was compensated with regards to his income; second, to verify that they have fully identified the various manufacturers and consultants who have provided training services; third, to verify that the only counsel who provided assistance was David J. Hopkins, Esquire; fourth, that the $100 fee for fitting and/or processing associated with the sale of Songbird disposable hearing aids cannot be broken down into components; and finally, to verify that all correspondence to or from consumers who cancelled transactions together with documents in support thereof have already been provided. All of the above to be submitted within twenty (20) days from date hereof.

With regards to the Motion regarding Defendant Marketing Specialists, Inc., it is the ORDER of this Court that said Defendant shall provide a breakdown of its income from

Mark E. Jones Hearing Instruments to reflect the specific amount received for hearing aids, accessories and services. Further, that said Defendant shall provide its Federal Income Tax returns for the year 2000 and information for the years 1998, 1999 and 2000 reflecting revenue from the sales of hearing aids, accessories and services. All of the above to be submitted within twenty (20) days from date hereof.

By the Court,



President Judge

FILED
0/2:49 BN
APR 26 2002

William A. Shaw
Prothonotary

1cc Atty Hopkins
1cc Atty E. Barry Creany

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

FILED

OCT 28 2003

William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR ENTRY OF APPEARANCE

TO: WILLIAM SHAW, PROTHONOTARY

Please enter my appearance as additional counsel for Plaintiff in the above-captioned action. My office address, Supreme Court I.D. number and contact information is as follows:

Office of Attorney General
Bureau of Consumer Protection
Administrative Office
Supreme Court No. 72561
14th Floor, Strawberry Square
Harrisburg, PA 17120
Phone: (717) 787-9707
Fax: (717) 787-1190

Dated: October 17, 2003

Respectfully submitted,

Frank T. Donaghue
Chief Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the Praecipe for Entry of Appearance filed by Chief Deputy Attorney General Frank T. Donaghue was served upon all counsel of record via first class U.S. mail, postage prepaid, on October 27, 2003, by sending a copy of the same to:

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
Dubois, Pa 15801

John R. Ryan, Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, Pa 16830

E. Barry Creany
Senior Deputy Attorney General

FILED NO CC
M10:39 BH
OCT 28 2003
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF/PETITIONER v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS/RESPONDENTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **PETITION FOR CONTEMPT**

FILED

NOV 24 2003

William A. Shaw
Prothonotary/Clerk of Courts

COUNSEL FOR PETITIONER

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ADMINISTRATIVE OFFICE
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HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
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EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR RESPONDENTS

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, and MARKETING SPECIALISTS, INC.

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DUBOIS, PA 15801
(814) 375-0300

COUNSEL FOR DEFENDANTS

ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE

JOHN R. RYAN, ESQUIRE
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15 NORTH FRONT STREET
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CLEARFIELD, PA 16830
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF/PETITIONER v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS/RESPONDENTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS PETITION FOR CONTEMPT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

KEYSTONE LEGAL SERVICES, INC.
211 ½ EAST LOCUST STREET
CLEARFIELD, PA 16830
(814) 765-9646

Office of Attorney General

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF/PETITIONER v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS/RESPONDENTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

PETITION FOR CONTEMPT

AND NOW, this 21st day of November, 2003, comes the Petitioner, the Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and brings this Petition for Contempt against Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, and Marketing Specialists, Inc., pursuant to the §§201-8 and 201-9.1 of the Act of December 17, 1968, P.L. 1224, No. 387, as amended and reenacted by the Act of November 24, 1976, P.L. 1166, No. 260, and the Act of December 3, 1996, P.L. 906, No. 146, 73 P.S. §201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law"), and in support thereof respectfully represents the following:

1. The Petitioner is the Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection (hereinafter "Commonwealth"), Ebensburg Regional Office, 171 Lovell Avenue, Suite 202, Ebensburg, Cambria County, Pennsylvania 15931.

2. Respondent Mark E. Jones (hereinafter "Jones") is an adult individual and resident of the Commonwealth of Pennsylvania who does business as M.E. Jones Hearing

Instruments and maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

3. Respondent Joseph G. Pannette (hereinafter "Pannette") is an adult individual and resident of the Commonwealth of Pennsylvania who in his capacity as a hearing aid fitter and the business manager of M.E. Jones Hearing Instruments conducts business from 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801. Respondent Pannette is the Chief Executive Officer of Respondent Marketing Specialists, Inc. Pannette participates as Business Manager of M.E. Jones Hearing Instruments either in his individual capacity or in his role as an employee or agent of Marketing Specialists, Inc.

4. Respondent Marketing Specialists, Inc. (hereinafter "MSI") is a Pennsylvania corporation which maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801. MSI provides business services to M.E. Jones Hearing Instruments including, but not limited to, management of accounts resulting from transactions with consumers who purchase hearing aids from M.E. Jones Hearing Instruments.

5. Unless otherwise specified herein, Respondents shall mean Respondent Jones, Respondent Pannette and Respondent MSI. Unless otherwise specified herein, whenever reference is made in this action to any act of the Respondents, such allegations shall be deemed the acts of each Respondent acting individually, jointly or severally.

6. At all times material hereto Respondents Jones and Pannette either personally participated in all of the actions alleged herein, or were in positions of sufficient authority and control over the operations of M.E. Jones Hearing Instruments at the times the actions alleged herein occurred.

7. On July 3, 2001, the Commonwealth filed a Motion for a Preliminary Injunction. On July 20, 2001, the Commonwealth filed a Motion for a Special Injunction asking this Honorable Court to enter a Special Injunction Order restraining and enjoining

Respondents Jones, Pannette and MSI from, *inter alia*, failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Law, and for violating the Consumer Protection Law by, *inter alia*, failing to honor a consumer's notice of cancellation. True and correct copies of said Motion for a Preliminary Injunction and Motion for Special Injunction filed with this Court are attached hereto and labeled Group Exhibit "A".

8. On July 20, 2001, this Honorable Court entered an Order granting the Commonwealth's Motion for a Special Injunction. Said Order enjoined the Respondents from in any manner violating the provisions of the Hearing Aid Registration Law and/or the Consumer Protection Law. A true and correct copy of said Order of July 20, 2001, is attached hereto and labeled Exhibit "B".

9. On July 24, 2001, this Honorable Court entered an Order extending the injunction it entered on July 20, 2001. A true and correct copy of said Order is attached hereto and labeled Exhibit "C".

10. Section 504.1 of the Hearing Aid Sales Registration Law provides that no hearing aid shall be sold within the Commonwealth unless accompanied by a 30-day money back written guarantee entitling a consumer to the refund of the purchase price of the hearing aid and accessories within 30 days of return of the hearing aid and accessories. 35 P.S. §6700-504.1.

11. The Consumer Protection Law prohibits the use of unfair methods of competition and unfair or deceptive acts and practices in trade and commerce within the Commonwealth of Pennsylvania and §7 thereof permits consumers to cancel transactions within 3 days and requires sellers who receive notice of a consumer's intent to cancel a transaction to honor the same and refund all payments made under the contract for sale. 73 P.S. §201-7.

12. Within the past few months the Commonwealth's Bureau of Consumer Protection has been receiving complaints from consumers who allege that they have entered into contracts for the purchase of hearing aids from M.E. Jones Hearing Instruments

which they subsequently canceled due to their dissatisfaction with the transaction (hereinafter "refund complaints").

13. Several of the recent refund complaints specifically allege that within 30 days of the date of their receipt of hearing aids from M.E. Jones Hearing Instruments they notified the Respondents that they were not satisfied with the hearing aids and they returned the hearing aids to the Respondents, however, they did not receive the refund due them from the Respondents within 30 days of the date of return of the hearing aids. Examples of these return complaints include, but are not limited to, the following consumer transactions:

A. On September 25, 2003, Mr. H. C. Woodring of Bellefonte, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on April 15, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $2,000.00 down payment. Mr. Woodring took delivery of the hearing aids on April 22, 2003, and paid the balance due of $2,000.00. Mr. Woodring was not satisfied with the hearing aids and notified M.E. Jones Hearing Instruments of the same on May 13, 2003. After repeated attempts by M.E. Jones Hearing Instruments' salespersons to encourage Mr. Woodring to keep the hearing aids, Ricky Pape picked up the hearing aids on July 22, 2003. Not until November of 2003, did Mr. Woodring receive a refund from M.E. Jones Hearing Instruments. A true and correct copy of the Woodring complaint is attached hereto and labeled Exhibit "D".

B. On September 18, 2003, William J. McAninch of Brookville, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on June 19, 2002, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $500.00 down payment. Mr. McAninch took delivery of the hearing aids on June 24, 2003, and paid the balance due of $1,900.00. Mr. McAninch was not satisfied with

his hearing aids and they were returned to M.E. Jones Hearing Instruments. When M.E. Jones Hearing Instruments did not provide Mr. McAninch with a refund within 30 days of the date of his return of the hearing aids, he had to hire an attorney and filed an action with a District Magistrate. Mr. McAninch prevailed in his District Magistrate case, however, he did not receive a refund from M.E. Jones Hearing Instruments until July of 2003. A true and correct copy of the McAninch complaint is attached hereto and labeled Exhibit "E".

C. On September 18, 2003, John A. Rokosky of DuBois, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on July 15, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $2,000.00 down payment. Mr. Rokosky took delivery of the hearing aids on July 24, 2003, and paid the balance due of $2,000.00. Mr. Rokosky was not satisfied with the hearing aids and returned them on July 29, 2003, to M.E. Jones Hearing Instruments requesting a refund. Mr. Rokosky had not received a refund from M.E. Jones Hearing Instruments before he filed his complaint with the Bureau of Consumer Protection on September 18, 2003. A true and correct copy of the Rokosky complaint is attached hereto and labeled Exhibit "F".

14. The Commonwealth has received recent complaints from consumers which specifically allege they entered into contracts with M.E. Jones Hearing Instruments for the purchase of hearing aids and within 3 days of the date of the transaction gave the Respondents notice that they wished to exercise their right to cancel their contract. The consumers further allege that they did not receive refunds due them from the Respondents within 10 days of having given notice of their intent to cancel the transaction (hereinafter "cancellation complaints"). An example of said cancellation complaints include, but are not limited to, the following:

A. On April 28, 2003, Muriel A. Frost filed a complaint with the Bureau of

Consumer Protection alleging that she entered into a contract with M.E. Jones Hearing Instruments for the purchase of hearing aids on April 16, 2003, and in connection with said transaction made a down payment of $1,500.00. In connection with her purchase Ms. Frost was given a 3-day right to cancel the transaction. On April 17, 2003, Ms. Frost contacted M.E. Jones Hearing Instruments and notified the company of her intent to cancel her contract. By certified letter sent and dated April 18, 2003, Ms. Frost gave M.E. Jones Hearing Instruments written notice of her intent to cancel the transaction, however, within 10 days of receipt of such notice the Respondents did not take the action necessary to provide Ms. Frost with a refund or credit of her down payment. A true and correct copy of the Frost complaint is attached hereto and labeled Exhibit "G".

15. Several of the consumers who have filed refund complaints or cancellation complaints with the Commonwealth's Bureau of Consumer Protection still have not received refunds due them from the Respondents.

16. The Commonwealth has provided the Respondents with copies of 13 complaints filed by consumers in 2003 alleging violations of §504.1 of the Hearing Aid Sales Registration Law and/or violations of the Consumer Protection Law by providing a copy to the Respondents directly and by sending copies of the same to the Respondents' counsel of record. Attached hereto and labeled Exhibit "H" is a list setting forth the names and complaint file numbers for consumers who filed complaints within 2003.

17. Respondents, through their counsel, have been notified by the Commonwealth that the complaints referenced in Exhibit "H" evidence a pattern and practice of conducting business in violation of the Hearing Aid Sales Registration Law and/or the Consumer Protection Law and in direct violation of this Court's Orders. A true and correct copy of the most recent notice sent to the Respondents is attached hereto and labeled Exhibit "I".

18. As of the date of this Petition for Contempt, the Respondents have failed to respond to the Commonwealth regarding the complaints referenced in Exhibit "H".

19. The Commonwealth believes and therefore avers that the Respondents have violated this Court's Orders of July 20, 2001, and July 24, 2001, by failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Law and by violating the Consumer Protection Law by , *inter alia*, failing to honor the 3-day cancellation requests.

WHEREFORE, the Commonwealth respectfully prays this Honorable Court to enter an Order scheduling a hearing on this Petition for Contempt and, following said hearing, entering a further Order finding Respondents Mark E. Jones, individually and doing business as M.E. Jones Hearing Instruments and Joseph G. Pannette and Marketing Specialists, Inc., to be held in contempt of this Court's Orders of July 20, 2001, and July 24, 2001, and direct that said Respondents undergo incarceration until such times as they purge themselves of contempt by:

A. Paying full and complete refunds of all amounts due consumers who have failed to receive refunds due them as provided for under either §504.1 of the Hearing Aid Sales Registration Law or the Consumer Protection Law;

B. Paying the Commonwealth civil penalties of Five Thousand and 00/100 Dollars ($5,000.00) for each violation of this Court's injunction; and,

C. Granting any other relief as this Court may deem necessary and appropriate.

DATE: November 21, 2003

Respectfully submitted,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

COUNTY OF CAMBRIA)
)
) SS:
COMMONWEALTH OF PENNSYLVANIA)
)

AFFIDAVIT

I, Timothy B. Shirey, being duly sworn according to law, hereby state that I am a Consumer Protection Agent for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Petition for Contempt are true and correct to the best of my knowledge, information and belief.

Dated: November 21, 2003

Timothy B. Shirey
Consumer Protection Agent

This Affidavit is made subject to the penalties of 18 Pa.C.S. §4904 relating to Unsworn Falsification to Authorities.

GROUP EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. MOTION FOR A PRELIMINARY INJUNCTION

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 03 2001

Attest. William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01- -C.D. MOTION FOR A PRELIMINARY INJUNCTION

MOTION FOR PRELIMINARY INJUNCTION

AND NOW, this 3rd day of July, 2001, comes the Commonwealth of Pennsylvania acting by D. Michael Fisher, Attorney General, through the Pennsylvania Bureau of Consumer Protection, and respectfully files this Motion for a Preliminary Injunction pursuant to §201-4 of the Unfair Trade Practices and Consumer Protection Law ("Consumer Protection Law"), 73 P.S. §201-4 and Pa.R.C.P. No. 1531, and in support thereof represents the following:

1. Plaintiff is the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection ("Commonwealth") and filed a Complaint in Equity and Petition for a Permanent Injunction on the 3rd day of July, 2001.

2. Defendants are Mark E. Jones, individually, and Mark E. Jones doing business as M.E. Jones Hearing Instruments and Joseph G. Pannette, individually, and Joseph G. Pannette doing business as J.G. Pannette Marketing Specialists, Inc., who have engaged in trade and commerce in the Commonwealth of Pennsylvania.

3. Defendants have engaged in the advertisement for sale and sale of hearing aids to consumers who are residents of the Commonwealth of Pennsylvania.

4. As more fully set forth in the complaint filed herein, in furtherance of their plan and

practice of advertising and selling hearing aids, the defendants:

A. Charge consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Charge consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition to the cancellation fee that is charged (hereinafter "Cancellation Fee Packing");

C. Extend the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Fail to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresent cancellation rights, or otherwise attempt to dissuade consumers from exercising the same;

E. Use a form in connection with their sale of the Songbird disposable hearing aid (hereinafter the "Songbird Disclosure form") which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7; and,

F. Use receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law (hereinafter "Hearing Aid Law").

5. Defendants continue to sell hearing aids to consumers using the methods, acts and practices set forth in paragraph 4 above.

6. Defendants' hearing aid sales practices cause confusion and misunderstanding among consumers as to the Commonwealth's certification or approval of the defendants' practices.

7. Defendants misrepresent and engage in deceptive conduct that causes confusion and

misunderstanding as to the consumer's right to cancel hearing aid sales transactions and receive refunds.

8. Defendants' conduct constitutes a violation of the Hearing Aid Law.

9. Defendants' conduct constitutes a violation of the Consumer Protection Law.

10. The Commonwealth's right to relief is clear and the Commonwealth is likely to succeed on the merits of the claim in its complaint in equity.

11. Defendants' violation of the Consumer Protection Law and the Hearing Aid Law constitute irreparable harm.

12. The Commonwealth and the public will continue to suffer irreparable harm if defendants are allowed to continue using the aforementioned methods, acts and practices in advertising and selling hearing aids.

13. The Commonwealth has no adequate remedy at law.

14. This Court has authority under Pa.R.C.P. No. 1531 and §201-4 of the Consumer Protection Law to issue a preliminary injunction if it finds that immediate and irreparable injury will be sustained. 73 P.S. §201-4.

15. Defendants' past and ongoing violations of the Consumer Protection Law constitute immediate and irreparable injury.

WHEREFORE, the Commonwealth prays this Honorable Court to issue a Preliminary Injunction Order:

A. Preliminarily restraining the defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition

to the cancellation fee that is charged;

C. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from extending the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from failing to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresenting cancellation rights, or otherwise attempting to dissuade consumers from exercising the same;

E. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using any form in connection with their sale of the Songbird disposable hearing aid, or any other hearing aid, which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7;

F. Preliminary restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law;

G. Scheduling a hearing in order to address this motion for a preliminary injunction; and,

H. Granting any other such further relief as this Court may deem necessary and appropriate to effectuate the purposes of the Consumer Protection Law.

DATE: July 3, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

MOTION FOR SPECIAL INJUNCTION

AND NOW, this 20th day of July, 2001, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and respectfully moves this Court for a special injunction and preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure and alleges in support thereof the following:

1. On July 3, 2001, plaintiff filed a verified Complaint and Petition for a Permanent Injunction and a Motion for a Preliminary Injunction with this Court which are docketed to the above captioned action number.

2. On July 3, 2001, The Honorable John K. Reilly, Jr. entered an Order scheduling a hearing on the Commonwealth's Motion for a Preliminary Injunction for the 16th day of July, 2001, at 3:00 P.M.

3. Without providing notice to the Commonwealth or obtaining plaintiff's consent, defendants' attorney, David J. Hopkins, contacted the Clearfield County Court Administrator's Office and obtained an ex parte continuance of the preliminary injunction hearing that was scheduled for July 16th. This contact took place on or about July 13, 2001.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 20 2001

Attest:

Prothonotary

4. The defendants' counsel did not give counsel for the Commonwealth notice of his entry of appearance until 8:36 p.m. on July 13, 2001. (A representative copy of notice of Attorney Hopkins' Entry of Appearance is attached hereto and labeled Exhibit "A".)

5. Sometime after 4:00 p.m. on July 13th a secretary from Attorney David J. Hopkins' office left a message with the Attorney General's Office that the hearing scheduled for July 16th had been continued. Counsel for the Commonwealth was not available at the time said message was left and did not receive the same until early Monday, July 16th.

6. On the mornings of July 16th, 17th and 18th counsel for the Commonwealth called Attorney Hopkins' office and left messages for Attorney Hopkins to contact the Attorney General's Office to discuss concerns regarding the continuance and the defendants' continued sale of hearing aid instruments in violation of the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

7. On July 18th when the Commonwealth's calls were not returned a letter was faxed to Attorney Hopkins outlining the Commonwealth's concerns with defendants' continued business practices and gave notice to Attorney Hopkins that if he failed to contact the Commonwealth to address concerns about the defendants' continued business practices the Commonwealth would present a Motion for a Special Injunction on Friday, July 20, 2001. (A representative copy of the Commonwealth's letter to Attorney Hopkins along with the fax confirmation sheet is attached hereto and labeled Exhibit "B".

8. The Commonwealth is informed, believes and therefore avers since July 3, 2001, defendants directly and through their agents have continued to engage in hearing aid sales in the manner which violates the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

9. The defendants' wrongful conduct is actionable.

10. Defendants will not suffer appreciable injury if a special injunction is granted

because the status quo will be maintained.

11. Plaintiff's rights are clear and plaintiff is likely to succeed on the merits of this claim.

12. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays this Honorable Court to enter a Special Injunction Order restraining and enjoining defendants from:

A. Failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Act.

B. Charging consumers cancellation fees in excess of the amount permitted by §504.1 of the Hearing Aid Sales Registration Act.

C. Engaging in unfair or deceptive acts or practices in connection with the sale of hearing aids by allocating portions of the "full hearing aid price" as nonrefundable fees in excess of the cancellation fees permitted by §501.4 of the Hearing Aid Sales Registration Act.

D. Failing to honor a consumer's notice of cancellation as provided for in §201-7 of the Consumer Protection Law.

E. Using contracts in the sale of goods or services which violate §201-7 of the Consumer Protection Law by misrepresenting a consumer's right to cancel a transaction with 3 days without any penalty or obligation.

F. Using receipts in connection with the sale of hearing aids which do not comply with §504 of the Hearing Aid Sales Registration Act.

G. Scheduling hearing within five (5) days of granting any special injunction which might issue in response to this motion.

H. Granting any other such relief as this Court may deem necessary and appropriate.

DATE: July 20, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendants, Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc., in the above captioned matter.

Date: July 11, 2001

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

Exhibit "A"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: FACSIMILE AND REGULAR MAIL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

July 18, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Each morning for the past three days I have contacted your office to indicate an immediate need to discuss with you the ex parte continuance that was granted on the Commonwealth's Motion for a Preliminary Injunction in the above-captioned case.

While I am deeply concerned by the fact that the continuance was granted ex parte, I am more disturbed by the fact that it appears your clients continue to sell hearing aid goods and services to consumers, mostly elderly, without complying with the laws governing such sales.

With respect to the continuance, we did not even receive word of your entry of appearance until receiving a fax from your office on July 13th at 8:46 p.m. Sometime around 4:00 on the 13th a message was left on my voice mail indicating the hearing scheduled for 3:00 p.m. on July 16th had been continued. At no time prior to that date did you contact me to indicate you were entering an appearance for the defendants and wished to have a continuance. In fact I had heard nothing from you since we met in State College to discuss this matter on June 26, 2001. Had you contacted me, I most likely would have agreed to the continuance. As a result of your lack of communication on this matter our Office incurred time and expense in preparing witnesses for the hearing and serving a subpoena on one of the defendants' employees. I am familiar with the Pennsylvania Rules of Civil Procedure and the Clearfield County Local Court Rules published in

Exhibit "B"

The Pennsylvania Bulletin and I do not believe that the granting of continuance without contacting opposing counsel complies with either the Pennsylvania or Clearfield rules on this matter.

In the course of serving pleadings and subpoenas in this matter, my agents were advised at various times that Mr. Jones and Bob Fauls were out of the office on hearing aid sales appointments. As I mentioned that if I had been consulted I would have been willing to consent to a continuance, however, I would have demanded that your clients cease all hearing aid sales activities which violate the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law as set forth in the complaint which we filed and served upon your clients on July 3rd.

Three days in a row I have contacted your office to discuss the need to have your clients immediately bring their practices into compliance with the Pennsylvania law. At this point I have not had the courtesy of a return phone call.

If I do not hear from you by the close of business today, I will prepare and have filed in Clearfield County Court of Common Pleas on Friday, July 20, 2001, a Motion for a Special Injunction requiring your clients' immediate compliance with the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

Please give this matter your immediate attention. If I do not hear from you, I will proceed accordingly.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

cc: Frank T. Donaghue, Chief Deputy Attorney General

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA:
ACTING BY ATTORNEY GENERAL D. :
MICHAEL FISHER :
:
-vs- : No. 01 – 1059 – CD
:
MARK E. JONES, individually and d/b/a :
M.E. JONES HEARING INSTRUMENTS :
and JOSEPH G. PANNETTE, individually :
and d/b/a J.G. PANNETTE MARKETING :
SPECIALISTS, INC. :

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 20 2001

Attest: Prothonotary

ORDER

NOW, this 20th day of July, 2001, upon consideration of Motion for Special Injunction filed on behalf of Plaintiffs above-named, it is the ORDER of this Court that said Special Injunction be and is hereby granted to the extent that Defendants are hereby restrained and enjoined from in any manner violating the provisions of the Hearing Aid Sales Registration Act, 35 P.S. 6700-101 and/or the Consumer Protection Law, 73 P.S. 201-1 et seq.

It is the further ORDER of this Court that on or before Monday, July 23, 2001, Defendants shall produce true and correct copies of all documents relating to all hearing aid sales transactions which M.E. Jones Hearing Instruments entered into with any consumers at any time since July 3, 2001, including, but not limited to, all contract forms, notice of cancellation forms, disclosure agreements, and Songbird disclosure and guarantee forms.

It is the further ORDER of this Court that a hearing on the continuation of this special injunction is hereby scheduled for Tuesday, July 24, 2001, at 10:00 a.m. in Courtroom #1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. Counsel for plaintiff shall

provide notice of such hearing to defendants by service of a copy of this Order on Attorney David J. Hopkins, Esquire, and Defendants shall appear at said hearing.

This special Injunction Order shall be binding on all parties, agents, employees and associates of the Defendants' and all those acting in concert with the Defendants or on behalf of Defendants who have actual knowledge of it.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

EXHIBIT "C"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

ORDER

NOW, this 24th day of July, 2001, this being the day and date set for hearing into Plaintiff's Motion for Special Injunction, upon agreement of the parties, it is the ORDER of this Court that the Injunction entered July 20, 2001, shall be and remain in full force and effect until further Order of Court.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

EXHIBIT "D"

F03-4539 TBS

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

MIKE FISHER
ATTORNEY GENERAL

www.attorneygeneral.gov

Bureau of Consumer Protection
Pittsburgh Regional Office
564 Forbes Avenue
Manor Complex, 6th Floor
Pittsburgh, PA 15219
(412) 565-5135

Office Use Only Investigator: JL Code 1 303 Code 2 900
Complaint # C006280-2003 303 815

H. C. Woodring
YOUR NAME

115 N McAllister Street
ADDRESS

Bellefonte PA 16823 Centre
CITY STATE ZIP CODE COUNTY

814 355 3829
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

Your Age:
18-29
30-44
45-59
60 or older

How did you find out about us:
Visited Office
Attended County/ Senior Fair or Speaking Engagement
State Legislator/ Agency
News Story
Internet
Other- Please Specify:

M. E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Rick Pape - Jerry Cannett
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main Street PO Box 686
ADDRESS

DuBois PA 15801
CITY STATE ZIP CODE COUNTY

814-371 6401 OR 1 800 223 3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids Left & Right ear	4/15/03	$4000 -

(This information will be used for Statistical & Enforcement Purposes Only)

To what other agencies have you complained? Better business bureau

What action was taken? Referred to Attorney General Office

Have you retained an attorney? ☐ Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☒ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Received
Office of Attorney General
SEP 25 2003

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $3,430.00 as per Agreement

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

September 22, 2003

115 North McAllister Street
Bellefonte, PA 16823
(814) 355-3829

Bureau of Consumer Protection
Office of Attorney General
Pittsburgh Regional Office
564 Forbes Avenue
Pittsburgh, PA 15219

Reference: M.E. Jones Hearing Instruments

To Whom it May Concern,

Hearing aids were prescribed on April 15, 2003 with a 30 day trial period. A down payment of $2,000 dollars was made on our Discover Credit Card that day. The remaining balance was to be paid upon delivery.

April 22, 2003 hearing aids delivered by Rick Pape of M.E. Jones Hearing Aid Sales & Service. The remaining balance of $2,000 was paid on the Discover Card listed above.

Having followed the directions given by the company for the proper use of hearing aids, the quality of hearing was not improved. At times, I had to remove the aids to hear better.

May 13, 2003, I called M.E. Jones to have hearing aids returned as per our contract since I was not satisfied. The hearing aids had not helped to improve my hearing. Tom, from M.E. Jones Hearing Aid Sales & Service, came to reprogram the hearing aids in an attempt to perform better.

May 28, 2003, Rick Pape picked up hearing aids to make corrections.

On June 5, 2003, Rick Pape returned hearing aids. Extending trial period *another* thirty days.

June 16,2003, I called office to return hearing aids as per our contract since I was not satisfied. No response from company.

June 23,2003, called office again to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 7,2003, called office again to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 8, 2003, Betty B. Woodring (my wife) called office to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 22, 2003, Rick Pape came to pick up and return hearing aids, we asked for a receipt for hearing aids. Also, we inquired about when we would receive our money less the specified charges. Rick stated "30 days."

September 8th, 9th, our money was not refunded and my wife contacted Jerry Cannett, supervisor M.E. Jones Hearing Aid Sales & Service, who said he would talk with the accountants and would call us back. No call back from company

September 11, 2003, my wife called again to speak with Jerry Cannett, he was not available.

Needless to say, we are very frustrated and concerned and would appreciate any help from this office to get our money returned as soon as possible. Thank you for your efforts.

Sincerely,

H.C. Woodring

Enclosures

Cc: M.E. Jones

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

371-6401

DISCLOSURE AGREEMENT

NAME H.C. Woodring AGE 79

ADDRESS 115 N. McAllister St. PHONE (814) 355-3829

CITY Bellefonte STATE PA. ZIP 16823

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

Jo Ellen W. talked 7/18/03 said it was noted when called in file so no problem.

2.00
285
1715

RIGHT INSTRUMENT	LEFT INSTRUMENT
CANCELLATION $ 100.00	CANCELLATION $ 100.00
FITTING/DISPENSING $ 150.00	FITTING/DISPENSING $ 150.00
IMPRESSION FEE $ 35.00	IMPRESSION FEE $ 35.00
TOTAL $ 285.00	TOTAL $ 285.00

Trudy - 7/18/03 - will call, let us know what is happening

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

x H.C. Woodring — 4-15-03
CUSTOMER'S SIGNATURE — DATE

W.L. Pontius — 4-15-03
REGISTRANT'S SIGNATURE — DATE

Daisy
5/22/03
9:12 AM

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 1-15-03

Name: H. C. Working Age:

Address: 115 N. McAlister St Phone: (814) 355-3629

City: Lemont State: PA

Zip Code: 16823 County: Centre New x Used Reconditioned

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI CIC Prog		RT.			
		LF.			

Full Hearing Aid Price ..... Special Promo	1000.00
Includes Impression Fee 75.00 Fitting & Dispensing Fee 225.00	
..... Custom Manuf. Disc. 200.00	200.00
Subtotal ..... Discount	1000.00
Down Payment Call on 7/09 0339 "C5	200.00
Balance Due ..... Call Before	200.00

Called 5/20/03 @ 9:00 A.M.
Betty called 5/16/03 in P.M.

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 15th Day of April year 2003 Purchaser: x H. C. Working

In presence of:

Countersigned: M.L. Phillips Co-purchaser:

Consultant and Registration Number: M.L. Phillips 00124L

M.E. JONES Hearing Instruments

M.E. Jones Hearing Instruments
101 North Main • DuBois, PA 15801
(814) 371-6401 • 1 (800) 223-3341

H.C. Woodring
115 McAlister St.
Bellefonte, PA

6-5-03

This is to extend Mr. Woodring's trial period thirty days from today.

7-22-03 Returned both AIDS - Rick Pape

RICK PAPE
HEARING AID SALES AND SERVICE
M.E. JONES HEARING INSTRUMENTS
101 NORTH MAIN STREET
DuBOIS PA 15801
814-371-6401 1-800-223-3341

9/8/03 - 10:06 AM
Becky - Jenny Cannett top dogs - will call by this afternoon or tomorrow morning

9/9/03 - 10:41 AM
Jo Ellen

9/11/03 - 1:07 Jo Ellen - left # for Jenny to call she will have

9/11/03 Jo Ellen said Jenny call in the morning!

DC. 9/15/03 Called B.B.B. in Dubois (they said their rating unsatisfactory)

DC 9/15/03 called Attorney General

EXHIBIT "E"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED
SEP 22 2003

www.attorneygeneral.gov

Office of Attorney General
Bureau of Consumer Protection
Administrative Office
14th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

Office Use Only Investigator: KS
Complaint # FOS-4390 TBS

Code 1 303 Code 2 400 807 815

RECEIVED
SEP 18 2003

William J. McAninch
YOUR NAME

382 Maplevale Rd.
ADDRESS

Brookville PA 15825 Jefferson
CITY STATE ZIP CODE COUNTY

814-849-7290 Same
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Rick Pape And Jerry
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main ST
ADDRESS

DuBois PA 15801 Clearfield
CITY STATE ZIP CODE COUNTY

814 371 6401 800 223 3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids	6-19-02	2400.00

To what other agencies have you complained? None

What action was taken? _____

Have you retained an attorney? ☑ Yes ☐ No
If yes, please provide your attorney's name, address and telephone number

Blair Hindman 814 226 6030
415 Wood St Clarion PA 16214

Have you filed a court action? ☑ Yes ☐ No
If yes, please state WHEN, WHERE and WHAT decision was made?

I was Awarded a refund.

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☑ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County Senior Fair or Speaking Engagement
- ☐ State Legislator/Agency
- ☐ News Story
- ☐ Internet
- ☑ Other - Please Specify: my son

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

[redacted]

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell WHAT happened, WHEN it happened and WHERE it happened. Be specific about any oral statements the business made to you, ESPECIALLY those that influenced you to deal with the company. Describe events in the order in which they happened. Attach COPIES of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

6-19-02 Rick Pape came to my house, took impressions and I gave him $500 and the $1900 balance of 6-24-02 when he delivered the hearing aids.

They never did work and I wanted my money refunded. After several phone calls, during which they told me they had mailed the check, and one check which was mailed but had insufficient funds, I hired an attorney and filed with the magistrate. My last phone call to M.C Jones was 10-10-02. The owner of the business has nothing in his name to attach. After a long battle I finally received my money back in July 2003, but I had legal fees to pay.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I think they should be put out of business so they can't take advantage of any one else. I had my son to help me but what about the people that don't have anyone to help? They need protected, too. Thank you.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. The information you provide will be used in an attempt to resolve your complaint and will be shared with the party you complained against. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

William McAnich
YOUR SIGNATURE

9-13-03
DATE

EXHIBIT "F"

CONSUMER COMPLAINT FORM

OMMONWEALTH OF PENNSYLVANIA
FFICE OF ATTORNEY GENERAL

IKE FISHER
ttorney General

BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

RECEIVED
SEP 18 2003
Office of Attorney General

OFFICE USE ONLY

NVESTIGATOR:

COMPLAINT #

Code 1 303 Code 2 800 F03-427610135

YOUR AGE: (STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ☒ 60 or older

OUR NAME JOHN A. ROKOSKY

OME PHONE (814) 371-5749 BEST NUMBER TO CALL DURING THE DAY (814) 371-5748

DDRESS 306 PIFER ST.

TY DUBOIS STATE PA ZIP CODE 15801 COUNTY CLEARFIELD

AME OF BUSINESS COMPLAINT IS AGAINST M.E. JONES HEARING INSTRUMENTS

AME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED LON AMILKAVICH MARK E. JONES

DDRESS 101 N. MAIN ST BOX 686 CITY DUBOIS

ATE PA ZIP CODE 15801 COUNTY CLEARFIELD PHONE (814) 371-6101 1-800-225-3341

oducts or Services Purchased	Purchase Price
1 RIGHT EAR HEARING AID	2,000.00
LEFT EAR HEARING AID	2,000.00
	$ 4,000.00

If your complaint involves a motor vehicle, please provide the following information:

Mileage on vehicle when purchased

Mileage on vehicle when you started experiencing problems

Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased

Indicate type, name & address of warranty company, if any

at other agencies have you complained to? CLFD. COUNTY DIST. ATTY

at action was taken?

ve you retained an attorney? ☐YES ☒ NO? If yes, please provide your attorney's name, address, & telephone mber

ve you filed a court action? ☐YES ☐ NO? If yes, please state **WHEN**

HERE and **WHAT** decision was made?

PLEASE COMPLETE THE REVERSE SIDE OF COMPLAINT FORM

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

Read full page ad in paper & called for an appointment. July 14 or 15 2003 was to appointment. Woman tested & said 20% hearing loss in left ear & 50% in right. I was told I would completely deaf in a few years but their hearing aids would protect my ears. Their hearing aids would Clarify tongs in the brain. Paid $2000 to order. July 24th picked up hearing aids paid $2000. Hearing aids did not help hearing. July 29th returned hearing aids. Would not give me a return receipt. Said come back at 3pm. Did & a man, called the President of Company, said we had to wait 30 days for a refund & he still refuses to give a return receipt. Rep. Durra's office has called many times for refund.

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $4,000.00.

LEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party mplained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the torney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. rough the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer ediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish olations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature John A. Lokey *Date* 9-17-03

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME JOHN A. ROKOSIK AGE 65

ADDRESS 306 PIPER ST PHONE (814) 371-5748

CITY DuBois STATE PA ZIP 15801

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	100.00
FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	~~385.00~~	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X John A. Rokosik
CUSTOMER'S SIGNATURE

John A. Rokosik
DATE

Jon V. Andlavich 2553
REGISTRANT'S SIGNATURE

7-15-03
DATE

EXHIBIT "G"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED

APR 2 8 2003

Office of Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

MIKE FISHER
ATTORNEY GENERAL

www.attorneygeneral.gov

Office Use Only	Investigator:	Code 1	Code 2
Complaint #	F03-2297 LJH	303	840

Muriel A Frost
YOUR NAME

85 Doe DRIVE
ADDRESS

Port Matilda PA 16870
CITY **STATE** **ZIP CODE** **COUNTY**

814-692-8566
HOME PHONE NUMBER **BEST NUMBER TO CALL DURING THE DAY**

ME JONES HEARING
NAME OF BUSINESS COMPLAINT IS AGAINST

MS ARNET
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. MAIN STREET
ADDRESS

DUBOIS PA 15801
CITY **STATE** **ZIP CODE** **COUNTY**

814-371-6411
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
HEARING AIDS	APRIL 16 2003	3500.00

To what other agencies have you complained? _____

What action was taken? _____

Have you retained an attorney? ☐ Yes ☐ No
If yes, please provide your attorney's name, address and telephone number

_____

_____

Have you filed a court action? ☐ Yes ☐ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

_____

_____

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☐ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Hummingbird Hill Bed and Breakfast

85 Doe Drive
Port Matilda, Pa. 16870

Phone 814-692-8566

April 18, 2003

M. E. Jones Hearing Instruments
Mark E. Jones, Dealer
101 N. Main Street
P.O. Box 686
DuBois, PA 15801

Dear Ms. Arnet:,

This letter is to inform you that I wish to cancel our contract written on April 16, 2003. After a lot of personal consideration and discussions with the Attorney General's Office, I feel I do not wish to purchase the hearing aids from your company. As per our conversation on April 17, 2003 and also the Three Day Cooling Off Rule, I do not owe you anything. I expect a credit issued to my credit card within the next ten days.

Thank you for you cooperation in this matter.

Sincerely,

Muriel A. Frost

cc: Timothy B. Shirey, Consumer Protection Agent

EXHIBIT "H"

2003 CONSUMER COMPLAINTS

	CONSUMER NAME	FILE NO.
1	Frost, Muriel	F03-2297
2	Hartman, Richard	F03-1820
3	Kaizer, William	F03-3464
4	McAninch, William	F03-4390
5	Newell, William	F03-0277
6	Ritter, William	F03-3941
7	Rokosky, John	F03-4276
8	Schauer, Willis	F03-3987
9	Spanogle, Margaret	F03-2817
10	Styers, Ronald	F03-3535
11	Swaney, Blanch	F03-3991
12	Swaney, William	F03-4082
13	Woodring, H. C.	F03-4539

EXHIBIT "I"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

September 23, 2003

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a complaint we just received from John A. Rokosky indicating that your client has violated both the Hearing Aid Sales Registration Law and the Preliminary Injunction Order that was entered by Judge Riley by failing to provide a refund to Mr. Rokosky within 30 days of his return of the hearing aids. From a recent review of new complaints it appears that your client has engaged in a pattern of failing to make timely refunds in transactions which involved consumers' requests for either 3-day cancellations or the 30-day refunds.

This letter is to put you on notice of these continued violations.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosure

FILED NO CC
m/2:04BK
NOV 24 2003
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF/PETITIONER v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS/RESPONDENTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

ORDER

AND NOW, this 26 day of November, 2003, a hearing on the Commonwealth's Petition for Contempt is hereby scheduled for December 30, , 2003, in Courtroom No. 1 at 2:00 P.M.

BY THE COURT,

_____, J.

FILED

NOV 26 2003

William A. Shaw
Prothonotary/Clerk of Courts

FILED
NOV 26 2003
3:19 BD
William A. Shaw
Prothonotary/Clerk of Courts

1CC Atty E. Barry Creany

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

FILED
m/10:40 cbl
DEC 04 2003
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the of the Petition for Contempt was forwarded on the 21st day of November, 2003, by U.S. mail, postage prepaid, to the following:

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, Pennsylvania 15801

DATED: November 21, 2003

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY
	: NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

FILED
m/10:40 BL
DEC 04 2003
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the of the Order scheduling a hearing on the Commonwealth's Petition for Contempt was forwarded on the 3rd day of December, 2003, by U.S. mail, postage prepaid, to the following:

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, Pennsylvania 15801

DATED: December 3, 2003

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
vs.	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANETTE MARKETING SPECIALISTS	:	

ORDER

AND NOW, this 17th day of December, 2003, it is the ORDER of the Court that argument on Plaintiffs' Petition for Contempt in the above matter has been rescheduled from December 30, 2003 to **Thursday, January 8, 2004 at 2:30 P.M.** before the Honorable Judge Paul E. Cherry, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

BY THE COURT:

JOHN K. REILLY, JR.
President Judge

FILED

DEC 17 2003

William A. Shaw
Prothonotary

FILED
01:12 BA
DEC 17 2003

William A. Shaw
Prothonotary

1cc atty Donaghue
1cc atty Hopkins

DEC 17 2003

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

FILED

DEC 19 2003

William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR PARTIAL SUMMARY JUDGMENT BY PLAINTIFF COMMONWEALTH OF PENNSYLVANIA

The Commonwealth of Pennsylvania, acting by Acting Attorney General Gerald J. Pappert, through the Bureau of Consumer Protection ("Commonwealth"), respectfully submits this Motion for Partial Summary Judgment. In support thereof, the Commonwealth avers the following:

1. The Commonwealth moves for partial summary judgment against Defendants Mark E. Jones, individually and d/b/a, M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a, J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc.

2. This action was reinitiated on August 2, 2001, upon the filing of an Amended Complaint in Equity and Petition for a Permanent Injunction pursuant to §201-4 of the Unfair Trade Practices and Consumer Protection Law ("Consumer Protection Law"). 73 P.S. §201-1, *et seq.*

3. The defendants in this action are Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. and Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape. This motion does not request the entry of partial summary judgment against either Robert W. Fauls, Richard L. Kerstetter or Ricky A. Pape.

4. This Motion for Partial Summary Judgment is based upon the following:

A. the pleadings which include the Amended Complaint and Petition for a Permanent Injunction filed on August 2, 2001, the Answer to Amended Complaint and Petition for a Permanent Injunction filed on behalf of Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually, and the Answer to Amended Complaint and Petition for a Permanent Injunction filed on behalf of Marketing Specialists, Inc.;

B. the deposition of Mark E. Jones taken on August 15, 2002;

C. the deposition of Joseph G. Pannette taken on August 15, 2002;

D. the answers to interrogatories and documents produced by Mark E. Jones and Joseph G. Pannette in response to the First Set of Interrogatories and Requests for Production of Documents to Mark E. Jones; First Set of Interrogatories and Requests for Production of Documents to Joseph G. Pannette; First Set of Interrogatories and Requests for Production of Documents to Marketing Specialists, Inc.; and,

E. affidavits which will be presented with a memorandum in support of this Motion for Partial Summary Judgment.

5. The pleadings, depositions, discovery documents and supporting affidavits establish that there are no genuine issues as to any material facts as to the liability of Defendants Jones, Pannette and Marketing Specialists, Inc. for the violations of the Consumer Protection Law raised in several of the counts in this action, and that the Commonwealth is entitled to judgment in its favor as a matter of law. In support of this motion, the Commonwealth maintains that the following are established:

A. Mark E. Jones is the dealer licensed by the Pennsylvania Department of Health to conduct business as a hearing aid dealer under the name M.E. Jones Hearing Instruments.

B. Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc. formulated, controlled, directed and participated in the policies, practices and activities of M.E. Jones Hearing Instruments resulting in the sale of hearing aids to consumers either directly or through their agents.

C. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law sold hearing aids to 488 consumers after February 20, 1999, without first providing said consumers with the disclosure agreement mandated by the Hearing Aid Sales Registration Law. 35 P.S. §6700-503.1.

D. Sometime after April 2000, Defendants Jones, Pannette and Marketing Specialists, Inc. through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law began using a form of a disclosure agreement in connection with the sale of hearing aids to consumers, however, in certain transactions Defendants Jones, Pannette and Marketing Specialists, Inc. used altered disclosure agreement forms which did not present the guarantee language mandated by the Hearing Aid Sales Registration Law. 35 P.S.

§§6700-503.1 and 6700-504.1. Specifically, in at least one sale said entered into a contract with a consumer using an altered disclosure agreement which provided that consumer wishing to cancel the transaction to wait anywhere from 60 days to 90 days after the return of his hearing aid and accessories in order to receive a refund rather than the 30 days mandated by law.

E. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law sold 14 Songbird hearing aids without first providing consumers with the disclosure agreements which contained the guarantee language mandated by the Hearing Aid Sales Registration Law. 35 P.S. §§6700-503.1 and 6700-504.1.

F. Defendants Jones, Pannette and Marketing Specialists, Inc. through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law sold 14 Songbird hearing aids to consumers without providing consumers with the oral and written notice of cancellation disclosures required by the Consumer Protection Law. 73 P.S. §201-7.

G. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law entered into transactions with 14 consumers in which they used Songbird contracts, and maintained the policy, which provided that even if consumers chose to cancel the transaction within 3 days the consumers would have to forfeit a non-refundable "fitting and dispensing fee of One Hundred Dollars ($100.00) per side" for said Songbird hearing aids.

H. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law

entered into transactions with consumers in which 16 consumers were charged 31 cancellation fees in excess of the lessor of 10% or One Hundred Fifty and 00/100 Dollars ($150.00) of the purchase price of said hearing aids which is prohibited by the Hearing Aid Sales Registration Law. 35 P.S. §6700-504.1(c).

I. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments in violation of the Consumer Protection Law entered into transactions with consumers after April 2000 through August 2001 using hearing aid sales receipts (i.e., contracts) which represented a "full hearing aid price" upon which a cancellation fee would be calculated, then, in connection with such sales, used disclosure agreements which broke out from the "full hearing aid price" fees in addition to cancellation fees including impression fees and fitting and dispensing fees, which were represented as being "non-refundable". By doing so, said Defendants Jones, Pannette and Marketing Specialists, Inc. thereby increased the amount of money that a consumer who canceled a contract within 30 days would forfeit from the lesser of 10% of One Hundred Fifty and 00/100 Dollars ($150.00) per hearing aid to 25% of the "full hearing aid price", which is prohibited by the Hearing Aid Sales Registration Law. 35 P.S. §6700-504.1(c).

J. Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments, in violation of the Hearing Aid Sales Registration Law and the Consumer Protection Law entered into contracts with at least 80 consumers, starting in April 2000 and continuing to the present, in which the Defendants Jones, Pannette and Marketing Specialists, Inc. overcharged the consumers Thirty-Five and 00/100 Dollars ($35.00) for each hearing aid by

assessing a Thirty-Five and 00/100 Dollar ($35.00) "impression fee" in addition to a "fitting fee". In addition, 2 consumers were assessed "impression fees" in excess of $35.00 for each hearing aid. Specifically, the act of taking impressions for the purposes of making ear molds is included within a fitting fee by statute and regulation and, therefore, Defendants Jones, Pannette and Marketing Specialists, Inc. have charged consumers twice for the same service. 35 P.S. §6700-103, Title 28 Pa.Code §25.202.

6. The pleadings, discovery, replies and documents and affidavits establish that there are no genuine issues as to any material fact in this case with respect to the issues identified in paragraph 5 above and the Commonwealth is entitled to judgment in its favor as a matter of law.

7. The legal arguments fully articulating the basis upon which the Commonwealth is entitled to partial summary judgment as a matter of a law will be contained in a memorandum to be filed in support of this Motion for Partial Summary Judgment by Plaintiff Commonwealth of Pennsylvania.

WHEREFORE, the Commonwealth requests this Honorable Court to enter an Order scheduling this Motion for Partial Summary Judgment for an argument hearing and, thereafter, enter an Order granting the Commonwealth's Motion for Partial Summary Judgment providing the following relief:

A. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by failing to use the disclosure agreements mandated by the Hearing Aid Sales Registration Law in connection with the sale of 488 hearing aid sales which were conducted between February 20, 1999, and April 2000.

B. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by using altered disclosure agreement forms in connection the sale of hearing aids to at least one (1) consumer after April 2000 which indicated the period within which a consumer would receive a refund upon their cancellation of the sales transaction was extended from the 30-day refund period required by the Hearing Aid Sales Registration Law to a refund period of 60 days or 90 days, thereby delaying the time within which a consumer would receive a refund of their money.

C. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by failing to use the disclosure agreement language mandated by the Hearing Aid Sales Registration Law in connection with the sale of 14 Songbird hearing aid sales to consumers conducted after April 2000.

D. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by failing to disclose to 14 consumers, orally and in writing, their right to cancel their contracts for the purchase of Songbird hearing aids within 3 full business days without penalty or obligation as required by §201-7 of the Consumer Protection Law.

E. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by representing to 14 consumers that they would forfeit a non-refundable "fitting and dispensing fee of One Hundred Dollars ($100.00) per side" for each hearing aid they purchased, even if the consumers canceled the transactions within 3 days, despite the fact that §201-7 permits a consumer to cancel a contract without penalty or obligation.

F. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by charging 16 consumers 31 cancellation fees after April 2000 which were in excess of the cancellation fee permitted by the Hearing Aid Sales Registration Law.

G. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by entering into transactions with 60 consumers between April 2000 and August 2001 in which they deceptively represented that in addition to the cancellation fee permitted by the Hearing Aid Sales Registration Law, consumers who canceled their contracts within 30 days would forfeit an additional 15% of the "full hearing aid price" by labeling the additional forfeiture as non-refundable fitting and dispensing fees and impression fees.

H. Finding that Defendants Jones, Pannette and Marketing Specialists, Inc., through M.E. Jones Hearing Instruments violated the Consumer Protection Law by overcharging 80 consumers Thirty-Five and 00/100 Dollars ($35.00) on each hearing aid sold after April 2000 by assessing consumers both an "impression fee" in addition to a "fitting fee". In addition, finding that said Defendants Jones, Pannette and Marketing Specialits, Inc., violated the Consumer Protection Law by overcharging 2 consumers amounts in excess of Thirty-five and 00/100 Dollars ($35.00) for "impression fees" in addition to "fitting fees". Specifically, the act of taking impressions for the purposes of making ear molds is included within a fitting fee by statute and regulation and, therefore, Defendants Jones, Pannette and Marketing Specialits, Inc. have charged consumers twice for the same service.

I. Permanently enjoining Defendants Jones, Pannette and Marketing Specialists, Inc. from violating the Consumer Protection Law, directly or through their agents, by

engaging in unfair methods of competition and unfair or deceptive acts or practices with respect to §201-7 of the Consumer Protection Law including, but not limited to:

1. Failing to disclose, orally and in writing, the consumers' rights to cancel their purchase within 3 full business days without penalty or obligation;
2. Representing that if a consumer cancels their contract within 3 days they will nonetheless forfeit any monies paid including, but not limited to, any fees described as "non-refundable; and,
3. Failing to provide full refunds within 10 business days to any consumers who cancel their contracts within 3 business days.

J. Permanently enjoining Defendants Jones, Pannette and Marketing Specialists, Inc. from violating the Consumer Protection Law, directly or through their agents, by engaging in any practices which violate the Hearing Aid Sales Registration Law including, but not limited:

1. Failing to use receipts in connection with the sale of hearing aids or accessories which comply with the Hearing Aid Sales Registration Law. 35 P.S. §6700-504 and Title 28 Pa.Code §25.210.
2. Advertising for sale or selling any hearing aids or accessories without including the 30-day moneyback written guarantee required to be included in the sale of any hearing aids or accessories pursuant to the Hearing Aid Sales Registration Law. 35 P.S. §6700-504.1.
3. Failing to use disclosure agreements in connection with the sale of any hearing aids or accessories as required by the Hearing Aid Sales Registration Law. 35 P.S.§§6700-503.1 and 6700-504.1.
4. Failing to provide consumers with a disclosure agreement and explaining the terms of said disclosure agreement in detail prior to the provision of any

service as required by the Hearing Aid Sales Registration Law. 35 P.S. §§6700-503.1 and 6700-504.1.

5. Failing to pay refunds within 30 days of the return of any hearing aids or accessories to any consumers who cancel their hearing aid contracts pursuant to the Hearing Aid Sales Registration Law. 35 P.S. §6700-504.1.

6. Charging consumers who enter into contracts for the purchase of any hearing aids and accessories a cancellation fee for the return of a hearing aid and accessory that exceeds the lesser of 10% of the purchase price or One Hundred Fifty and 00/100 Dollars ($150.00) as required by the Hearing Aid Sales Registration Law. 35 P.S. §6700-504.1.

7. Charging consumers an "impression fee" in addition to a fitting fee in violation of the Hearing Aid Sales Registration Law. 35 P.S. §6700-101, *et seq.*

K. Finding that all contracts that consumers entered into with M.E. Jones Hearing Instruments after February 20, 1999, in which the consumers did not receive a proper disclosure agreement be deemed void, and direct Defendants Jones, Pannette and Marketing Specialists, Inc. to provide full refunds to any such consumers. In the alternative, direct Defendants Jones, Pannette and Marketing Specialists, Inc. to provide said consumers with a disclosure agreement which complies with the Hearing Aid Sales Registration Law and allow the consumers the opportunity to cancel their contract and receive a refund in accordance with the provisions of §6700-504.1 of the Hearing Aid Sales Registration Law.

L. Finding that all contracts which consumers entered into with M.E. Jones Hearing Instruments as a result of, or in connection with, a contact with or call upon the consumer at his residence which were not accompanied by proper notices of

cancellation be deemed void, and direct Defendants Jones, Pannette and Marketing Specialists, Inc. to provide full refunds to any such consumers. In the alternative, direct Defendants Jones, Pannette and Marketing Specialists, Inc. to provide said consumers with notices of cancellation and allow the consumers the opportunity to cancel their contract within 3 days and receive full refunds in accordance with the provisions of §201-7 of the Consumer Protection Law.

M. Directing that Defendants Jones, Pannette and Marketing Specialists, Inc. pay a civil penalty in the amount of at least Five Hundred Eighty-Five Thousand and 00/100 Dollars ($585,000.00) for their violations of the Hearing Aid Sales Registration Law and the Consumer Protection Law pursuant to §201-8 of the Consumer Protection Law.

N. Scheduling a hearing to determine the amounts of restitution due consumers for the Defendants Jones, Pannette and Marketing Specialists, Inc.'s violations of the Hearing Aid Sales Registration Law and the Consumer Protection Law pursuant to §201-8 of the Consumer Protection Law.

DATED: December 18, 2003

Respectfully submitted,

GERALD J. PAPPERT
ACTING ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

VERIFICATION

I, E. Barry Creany, hereby state that I am the attorney for the Plaintiff, Commonwealth of Pennsylvania, in this action and verify that the statements made in the Commonwealth's Motion for Partial Summary Judgment are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 P.S. §4904 relating to unsworn falsification to authorities.

Dated: December 18, 2003

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

CERTIFICATE OF SERVICE

I, E. Barry Creany, Senior Deputy Attorney General, do hereby certify that on December 18, 2003, a true and correct copy of the Commonwealth's Motion for Partial Summary Judgment was served upon all defendants in this action by sending the same by first class U.S. mail, postage prepaid to the following:

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

FILED NO CC
3)10:3)
DEC 19 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	Type of Pleading:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	**ENTRY OF APPEARANCE**
	:	Filed on Behalf of: DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED

DEC 30 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, a Defendant, in the above captioned matter.

Respectfully Submitted,

Jeffrey S. DuBois, Esquire
Attorney for Defendant

FILED 3cc to Atty DuBois
019:19-731
DEC 30 2003 copy to C/A

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	Type of Pleading:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	**MOTION FOR CONTINUANCE**
	:	Filed on Behalf of: DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED

DEC 30 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

MOTION FOR CONTINUANCE

AND NOW, comes the Defendant, MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS, by and through his attorney, Jeffrey S. DuBois, Esquire, who files this Motion for Continuance and in support thereof avers the following:

1. Defendant has just retained the undersigned to represent Defendant.

2. A Hearing is scheduled for Thursday, January 8, 2004, at 2:30 p.m.

3. The undersigned has already been previously scheduled for a Hearing at another Court the same date and time.

4. It is in the Defendant's best interest to have the undersigned represent him at said Hearing.

WHEREFORE, the Defendant respectfully requests this Honorable Court to grant said Motion for Continuance to a new date and time.

Respectfully Submitted,



Jeffrey S. DuBois, Esquire
Attorney for Defendant

FILED 3cc
01 9:30 BH
DEC 30 2003 Atty DuBois
William A. Shaw
Prothonotary/Clerk of Courts

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Type of Pleading: Answer to Petition for Contempt
	Filed on behalf of: Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G Pannette Marketing Specialists, Inc.
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED
DEC 31 2003
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ANSWER TO PETITION FOR CONTEMPT

AND NOW, comes Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., by and through its attorneys, The Hopkins Law Firm, and answers Plaintiff's Petition for Contempt as follows:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted in part. Denied in part. Answering Respondents deny Mark E. Jones participated in any of the actions alleged in Petitioner's Petition for Contempt. Any actions dealing with the refund of money were the actions of Pannette. By way of further answer, Pannette denies having participated in any activity that is in violation of this Court's prior orders.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Denied. The Consumer Protection Law authorizes consumers to cancel transactions within three (3) days only if the sale has taken place in a consumer's home.

12. Neither admitted nor denied. The information set forth in paragraph 12 is outside of the knowledge of answering Defendants.

13. Denied. For the reasons set forth in paragraphs (A), (B), and (C), Respondents deny each of the allegations set forth in paragraph 13 as set forth below:

A. Mr. Woodring purchased hearing aids on April 15, 2003. After repeated attempts to adjust hearing instruments to Mr. Woodring's liking, the hearing aids were returned on July 23, 2003. The file was inadvertently filed away with those cancellations already refunded. This error was not discovered until a Consumer Protection Agency notified Respondent that Mr. Woodring had not received his refund. Respondent immediately conducted an investigation and found the error. Consumer Protection requested the refund be forwarded to their

office, and Respondents refunded Mr. Woodring's money to the Consumer Protection Agency as per their request.

B. William J. McAninch took delivery of hearing aids in 2002. Mr. McAninch was unhappy with the hearing aids he had received. Several attempts were made by M.E. Jones' sales people to alleviate the problems with the hearing aids, and each time continued Mr. McAninch's 30-day trial period. Eventually, Mr. McAninch determined that he wanted his money returned, and Respondents sent Mr. McAninch a check for the amount of the hearing aids less fees authorized by the Consumer Protection Act. Mr. McAninch was unhappy with the deduction of permitted fees and, thereafter, filed a complaint with the District Magistrate. Notwithstanding the actions of Mr. McAninch and the District Magistrate, at all material times respondents complied with the Consumer Protection Act.

C. In 2003, John A. Rokosky purchased hearing aids from Respondents. Mr. Rokosky requested a refund of his money, and Mr. Rokosky was offered a check within thirty (30) days. Said check was for the amount Mr. Rokosky had paid less fees authorized by the Consumer Protection Act. Mr. Rokosky was unhappy that fees had been subtracted from his refund check. Mr. Rokosky refused to return his hearing aids and, eventually, Representative Daniel Surra became involved. Mr. Rokosky was refunded the full amount that he paid.

14. Denied. At all material times hereto, the Consumer Protection Act does not automatically provide a three-day right to cancel unless a sale takes place in an

individual's home. By way of further answer, Respondents do not have sufficient knowledge to know what, if any, complaints were received by the petitioner.

A. Muriel A. Frost paid Respondent for hearing aids. Ms. Frost did not have a three (3) day right to cancel because she purchased the hearing aids in Respondent's office rather than in Ms. Frost's home. Notwithstanding the above, Ms. Frost paid for the hearing aids with a credit card, and she received a 100 percent credit on her credit card.

15. Neither admitted nor denied. Answering Respondents are unable to admit or deny the allegations set forth in paragraph 15 after a reasonable investigation and strict proof is demanded at trial.

16. Admitted in part and denied in part. Respondents admit the Commonwealth has provided Respondents with copies of 13 complaints filed by consumers in 2003. Respondents' answers to the complaints set forth by the Commonwealth as to various consumers are set forth above. In response to other names listed on the attached Exhibit "H", Respondent denies violations of the Consumer Protection Act as follows:

A. Richard Hartman - Mr. Hartman attempted to cancel the contract after he had been in possession of the hearing aids for thirty (30) days. Notwithstanding the above, Respondents paid Mr. Hartman the appropriate refund for his hearing aids.

B. William Kaser – William Kaser purchased hearing aids in November 2002. After Mr. Kaser's thirty (30) day trial period was over, he complained about the adjustability of the hearing aids. To solve the problem,

Respondents supplied Mr. Kaser with a complete new hearing aid, which is more adjustable and programmable, as well as more expensive. This hearing aid was supplied to Mr. Kaser at no additional cost to him.

It was Mr. Kaser's opinion that he was not hearing properly. Respondents offered to re-program and re-adjust the hearing aids to make them suitable. This occurred after four (4) months. Mr. Kaser would not permit the re-programming and re-adjustment of his hearing aids.

Mr. Kaser then came to Respondent's office to return the hearing aids. He was told that the hearing aids could not be returned inasmuch as the thirty (30) day trial period had long since ended, however, Respondents would re-program the hearing aids and return them to him. He would not accept the aids. No money is due to William Kaser.

C. William Newell - Mr. Newell did not return his hearing aids within the thirty (30) day trial period. Notwithstanding the above, Mr. Newell received a refund from the Respondents.

D. Willis Schauer - Mr. Schauer did not return his hearing aids within the thirty (30) day trial period. Notwithstanding the above, Mr. Schauer received a refund from the Respondents.

E. Margaret Spanogle - Ms. Spanogle paid $100.00 when the hearing aids were delivered. She wanted to use the hearing aids for a thirty (30) days to determine whether she wanted to keep the hearing aids before she paid for the hearing aids. This was an unusual request. Nevertheless, Respondents

accommodated Ms. Spanogle. Ms. Spanogle used the hearing aids for several months then demanded a refund of her $100.00. Respondents were entitled to a cancellation fee greater than $100.00. Nevertheless, Ms. Spanogle's $100.00 was repaid in full.

F. Ronald Styers – Ronald Styers was tested and fitted by certified audiologist, William Pontius, on February 6, 2003. The audiogram clearly indicated significant hearing loss above 1,000hz and that Mr. Styers would definitely benefit from the use of hearing aids. Hearing aids were delivered on February 22, 2003. The right hearing aid was cleaned and serviced on March 25, 2003. The right hearing aid was cleaned on September 23, 2003. To the best of Respondent's knowledge, Mr. Styers continues to wear his hearing aids and is doing fine.

G. William Ritter - Upon refusing to accept delivery of his hearing aids, Mr. Ritter contacted his credit card company who, in turn, notified Respondent that a charge-back was being issued. To the best knowledge of Respondents, this was done and Mr. Ritter received a full credit on his credit card purchase.

Respondents then became aware that Consumer Protection says Mr. Ritter did not receive his refund. Respondents are currently researching their records and bank statements to determine if the charge-back was indeed granted by the credit card company.

H. William Overly - Mr. Overly returned the hearing aids to Respondents to have necessary repairs performed. Mr. Overly refuses to allow

Respondents to return the hearing aids to him not withstanding the thirty (30) day trial period has long since passed.

I. Richard Hartman - Mr. Hartman was fitted with hearing aids on December 27, 2002. After wearing the hearing aids, he could hear well, but did not like the re-chargeable cell being concealed. He wanted the compartment to open so the cell could be replaced without opening the whole hearing aid. At Respondents' expense, Mr. Hartman received a completely new hearing aid made to his specifications. This model had just become available. He next needed to have an adjustment made to the instruments because his television was too low for his wife to understand. Mr. Hartman wore the hearing aids around the house without problem. While in a restaurant, he used the memory switch for the first time. He discovered he needed another adjustment.

In April 2003, he said that he talked to someone with a different kind of hearing aid, and he decided he wanted those. These hearing aids were more expensive, and Mr. Hartman did not want to pay the difference. Respondent went back to pick up Mr. Hartman's hearing aids, but Mr. Hartman would not release them. Mr. Hartman stated he wanted a full refund of the purchase price. Then he asked to have the hearing aids adjusted so he could try them again and he wanted to make up his mind.

The next correspondence Respondents received from him was in the form of a lawsuit. Mr. Hartman never returned the aids. Respondents were contacted by Consumer Protection and forwarded the refund to them. They in turn picked

up the hearing aids from Mr. Hartman and to our knowledge are still in possession of them at their State College office.

J. William and Blanch Swaney - Mr. and Mrs. Swaney returned hearing aids during the trial period and have received a refund for the hearing aids pursuant to the Consumer Protection Act.

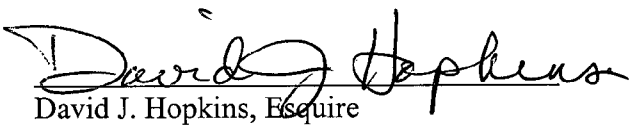
17. Denied. For the reasons set forth in Respondents' answer to this Petition, Respondents deny they have violated the Hearing Aid Sales Registration Law and/or the Consumer Protection Law and further deny having violated any Court Order.

18. Denied. For the reasons set forth in Respondents' answer to this Petition, Respondents deny they have violated the Hearing Aid Sales Registration Law and/or the Consumer Protection Law and further deny having violated any Court Order.

19. No answer is required of this paragraph as much as it calls for a legal conclusion. To the extent an answer is required, Respondents deny all of the allegations set forth in paragraph 19 for the reasons set forth in this answer.

WHEREFORE, Respondent Joseph G. Pannette, Mark E. Jones and M.E. Jones Hearing Instruments and Marketing Specialists, Inc. respectfully request the Commonwealth's Petition for Contempt be dismissed in total and Respondents be awarded appropriate counsel fees for the defense of this action.

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

VERIFICATION

I am Dealer of M. E. Jones Hearing Instruments and I am authorized to execute this Verification. I hereby verify that the statements made in this pleading are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

M. E. Jones Hearing Instruments

By: _____
Mark E. Jones

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

_____
Mark E. Jones

VERIFICATION

I am President of Marketing Specialists, Inc. and I am authorized to execute this Verification. I hereby verify that the statements made in this pleading are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

Marketing Specialists, Inc.

By: _____
Joseph G. Pannette

VERIFICATION

I hereby verify that the statements made in this pleading are true and correct to the best of my knowledge. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904, relating to Unsworn Falsification to Authorities.

_____
Joseph G. Pannette

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Petition for Contempt, filed on behalf of Joseph G. Pannette, individually and d/b/a as J. G. Pannette Marketing Specialists, Inc. and Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, was forwarded on the 31st day of December, 2003, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Respectfully submitted,

David J. Hopkins, Esquire

FILED
DEC 31 2003
William A. Shaw
Prothonotary/Clerk of Courts

3cc Atty Hopkins

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Praecipe for Withdrawal of Appearance
	Filed on behalf of: Mark E. Jones, Defendant
	Counsel of Record for this party:
	DAVID J. HOPKINS Attorney at Law Supreme Court No. 42519
	900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED

JAN 06 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Please withdraw my appearance for Mark E. Jones, Defendant, in the above-captioned matter and enter the appearance of counsel as set forth below.

Date: 1-5-04

David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Praecipe for Withdrawal of Appearance has been served all counsel of record by first-class mail, postage prepaid addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Dated: Jan 5 2004

David J. Hopkins, Esquire

FILED 1 CC Atty Hopkins
01 11:20 BOT
JAN 06 2004 & copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	NO. 01-1059-CD
VS.	:	
MARK E. JONES, al	:	

ORDER

AND NOW, this 6th day of January, 2004, upon agreement of the parties by and through their counsel, it is the ORDER of this Court that the hearing on Plaintiff's Contempt Petition scheduled for January 8, 2004, be and is hereby cancelled. Said hearing is rescheduled for Tuesday, February 3, 2004 at 11:30 A.M.. It is the further Order of this Court that Argument on Plaintiff's Motion for Partial Summary Judgment is scheduled for Tuesday, February 3, 2004 at 1:30 P.M.. Both hearings will be held in Courtroom No. 2 of the Clearfield County Courthouse.

BY THE COURT,

Paul E. Cherry

HONORABLE PAUL E. CHERRY, JUDGE

FILED

JAN 07 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 1 cc Atty Creany
01 10:20 BH 1 cc Atty DuBois
JAN 07 2004
William A. Shaw 1 cc Atty Ryan
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	NO. 01-1059-CD
VS.	:	
MARK E. JONES, al	:	

ORDER

AND NOW, this 13th day of January, 2004, the Court having been notified by counsel for the Plaintiff that the Plaintiff's Contempt Petition will require longer than the allotted ½ hour scheduled, it is the ORDER of this Court that the Argument on Plaintiff's Motion for Partial Summary Judgment is rescheduled for Tuesday, February 3, 2004 at 11:30 A.M.. It is the further ORDER of this Court that Argument on Plaintiff's Contempt Petition is scheduled for Tuesday, February 3, 2004 at 1:30 P.M.. Both hearings will be held in Courtroom No. 2 of the Clearfield County Courthouse.

BY THE COURT,

FILED

JAN 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

Paul E Cherry

HONORABLE PAUL E. CHERRY, JUDGE

FILED

JAN 14 2004

William A. Shaw
Prothonotary/Clerk of Courts

cc Attys:
Creany
DuBois
Hopkins
Ryan
Donahue

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**DEFENDANT, MARK E. JONES, RESPONSE TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	Filed on Behalf of: DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED

JAN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

RESPONSE TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

AND NOW, comes the Defendant, Mark E. Jones, by and through his attorney, Jeffrey S. DuBois, Esquire, who files the following Response to Plaintiff's Motion for Partial Summary Judgment and in support thereof avers the following:

1. Defendant, Mark E. Jones, objects to Plaintiff's Motion for Partial Summary Judgment against him individually.

2. As set forth in Plaintiff's Motion, said Motion does not request the entry of Partial Summary Judgment against Defendants Robert W. Fauls, Richard L. Kerstetter, or Ricky A. Pape.

3. It is assumed by the Defendant, Mark E. Jones, that said persons are not subject to the Motion for Partial Summary Judgment because they are sales representatives of the company and not owners of the company.

4. As has been clearly set forth in the Responsive Pleadings, as well as Discovery, Defendant, Mark E. Jones, is not an owner or director of the company, but is a sales representative, the same as the three persons referenced above.

5. The name M.E. Jones Hearing Instruments represents only the equivalent of a fictitious name, and Defendant, Mark E. Jones, has no ownership interest, nor control, nor direction, in the company.

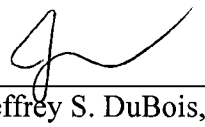
6. As a consequence, all of the allegations set forth by the Plaintiff in the Motion for Partial Summary Judgment are ones in which Defendant, Mark E. Jones, at least in part, has no information nor control, nor was Defendant, Mark E. Jones, the representative in most, if not all of the above referenced transactions.

7. Additionally, Defendant Jones has no direct involvement in the refund process, and thus cannot be held accountable for the same.

8. Therefore, said Summary Judgment Motion is inappropriate as the averments set forth above clearly show that Plaintiff has not proven that there are no genuine issues as to any material facts in this case concerning Defendant, Mark E. Jones.

WHEREFORE, Defendant, Mark E. Jones, respectfully requests this Honorable Court to dismiss Plaintiff's Motion for Partial Summary Judgment against him individually.

Respectfully submitted,



Jeffrey S. DuBois, Esquire
Attorney for Defendant,
Mark E. Jones

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 27th day of January, 2004, I served a true and correct copy of the within Defendant, Mark E. Jones, Response to Plaintiff's Motion for Partial Summary Judgment by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

Jeffrey S. DuBois

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JAN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**ANSWER TO PETITION FOR CONTEMPT**
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	Filed on Behalf of: DEFENDANT – MARK E. JONES, INDIVIDUALLY
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

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JAN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ANSWER TO PETITION FOR CONTEMPT

AND NOW, comes the Defendant, Mark E. Jones, individually, by and through his attorney, Jeffrey S. DuBois, Esquire, who files the following Answer to Petition for contempt and in support thereof avers the following:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. No responsive pleading is required.

6. Denied. It is denied that Defendant, Mark E. Jones, participated in the activities alleged herein, and as set forth in Defendant, Joseph G. Pannette's answer, and herein, Defendant, Mark E. Jones, has no ownership nor direct control in the company and did not participate in any alleged actions herein.

7. Admitted.

8. Admitted.

9. Admitted.

10. No responsive pleading is required.

11. No responsive pleading is required.

12. Defendant, Mark E. Jones, is without sufficient information to form a belief as to the truth or falsity of the averments contained in Plaintiff's paragraph number 12 and strict proof thereof is demanded at Trial.

13. As set forth herein, as well in Defendant, Joseph G. Pannette's answer, Defendant Mark E. Jones, is not an owner or director of the company, but a sales representative, and therefore Defendant Jones does not have any information as to the truth of falsity of the averments contained in Plaintiff's paragraph number 13 and strict proof thereof is demanded at Trial. By way of further answer, Defendant Jones did not service any of the persons set forth in paragraph number 13.

14. See answer to paragraph number 13 herein. Moreover, Defendant did service this individual.

15. See answer to paragraph number 13 herein.

16. See answer to paragraph number 13 herein.

17. See answer to paragraph number 13 herein.

18. See answer to paragraph number 13 herein.

19. See answer to paragraph number 13 herein. By way of further answer, Defendant, Mark E. Jones has not violated any Court Order.

WHEREFORE, Defendant, Mark E. Jones, requests this Honorable Court to dismiss Plaintiff's Petition for Contempt.

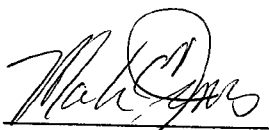
Respectfully submitted,

Jeffrey S. DuBois, Esquire
Attorney for Defendant,
Mark E. Jones

VERIFICATION

I, MARK E. JONES, verify that the statements in the foregoing Answer to Petition For Contempt are true and correct to the best of my knowledge, information and belief.

This statement and verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities, which provides that if I make knowingly false averments, I may be subject to criminal penalties.



Mark E. Jones

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 28th day of January, 2004, I served a true and correct copy of the within Defendant, Mark E. Jones, Response to Plaintiff's Motion for Partial Summary Judgment by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

Jeffrey S. DuBois

FILED 3cc
m/ 21 BA Atty DuBois
JAN 29 2004 E
BA

William A. Shaw
Prothonotary/Clerk of Courts

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Type of Pleading: Amended Answer to Amended Complaint and Petition for a Permanent Injunction
	Filed on behalf of: Joseph G. Pannette, individually, and d/b/a J. G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. Defendants
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED

JAN 30 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

AMENDED ANSWER TO AMENDED COMPLAINT AND PETITION FOR A PERMANENT INJUNCTION ON BEHALF OF JOSEPH G. PANNETTE, INDIVIDUALLY AND D/B/A J. G. PANNETTE MARKETING SPECIALISTS, INC. AND MARKETING SPECIALISTS, INC.

AND NOW, comes Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. by and through their attorneys, Hopkins Heltzel, LLP, and amends the Answers to the Amended Complaint and Petition for Permanent Injunction as follows:

COUNTS 1, 2, 3, 4, 5, 6, 7

1. Defendants repeat their answers previously submitted as if set forth at length herein.

2. The Hearing Aid Sales and Registration Act as amended, became effective December 21, 1998, P.L. 1190, No. 153. Section 801 states as follows:

"Notwithstanding any other provisions of this act, hearing aids fitters subject to this Act shall have a period of two (2) years from the effective date hereof in which to comply with this act; and no disciplinary action shall be taken against any such person for a period of two (2) years from the effective date of this Act."

Section 801 prohibits the Attorney General from taking any disciplinary action for any activity that occurred prior to December 21, 2000.

NEW MATTER

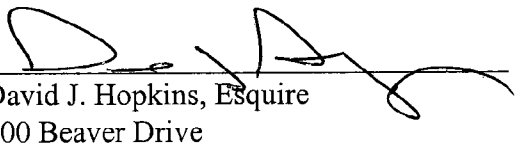
1. Defendants repeat their answers previously submitted as if set forth at length herein.

2. The Hearing Aid Sales and Registration Act as amended, became effective December 21, 1998, P.L. 1190, No. 153. Section 801 states as follows:

"Notwithstanding any other provisions of this act, hearing aids fitters subject to this Act shall have a period of two (2) years from the effective date hereof in which to comply with this act; and no disciplinary action shall be taken against any such person for a period of two (2) years from the effective date of this Act."

Section 801 prohibits the Attorney General from taking any disciplinary action for any activity that occurred prior to December 21, 2000.

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Amended Answer to Amended Complaint and Petition for a Permanent Injunction, filed on behalf of Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., was forwarded on the 30th day of January, 2004, by facsimile and by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Respectfully submitted,

David J. Hopkins, Esquire

THE HOPKINS LAW FIRM

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Type of Pleading: Answer to Motion for Partial Summary Judgment by Plaintiff, Commonwealth of Pennsylvania
	Filed on behalf of: Joseph G. Pannette, individually, and d/b/a J. G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. Defendants
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED

JAN 30 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ANSWER TO MOTION FOR PARTIAL SUMMARY JUDGMENT BY PLAINTIFF, COMMONWEALTH OF PENNSYVLANIA

AND NOW, comes Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. by and through their attorneys, Hopkins Heltzel, LLP, and answers the Motion for Partial Summary Judgment filed by Plaintiff as follows:

1. No answer is required of this paragraph.

2. Admitted.

3. Admitted.

4. No answer is required of this paragraph.

5. Denied. Each allegation as set forth in Plaintiff's Complaint requires a factual finding. Each allegation of wrongdoing is disputed and consequently summary

judgment is prohibited by the Rules of Court.

A. Admitted.

B. Denied. Defendants incorporate their Answer to Amended Complaint as if set forth at length herein.

C. Denied. Defendants knew that regulations were to be promulgated pursuant to the Hearing Aid Sales Registration Act as amended December 21, 1998, C.L. 1190, No. 153. Defendants telephoned the Pennsylvania Department of Health and Pennsylvania Hearing Aid Alliance. Both entities informed Defendants that regulations were not finalized nor approved and they could not tell Defendants what form or type of form should be used until the regulations were promulgated. In April, 2000, Defendants received a telephone call from Margie A. Anderson, Deputy Attorney General of the Commonwealth of Pennsylvania, questioning Defendants as to whether or not Defendants used disclosure forms. Ms. Anderson informed Defendants telephonically they should immediately start using a disclosure form. Ms. Anderson then sent a written formal warning dated April 19, 2000 that any future violations would be considered willful and intentional. See Exhibit "A". Since April, 2000, Defendants have used a disclosure form.

By way of further answer, the Hearing Aid Sales Registration Act as amended on December 21, 1998 states in Section 801:

> Notwithstanding any other provision of this Act, hearing aid fitters subject to this Act shall have a period of two (2) years from the effective date hereof in which to comply with this Act; and, no disciplinary action shall be taken against any such person for a period of two (2) years from the effective date of this Act.

Consequently, the Attorney General's actions in bringing this action against

Defendant for activity that occurred within the two (2) year period following the amendment of the Act is improper.

(D). Denied. The Hearing Aid Sales Registration Act provides a minimum thirty (30) day trial period. There is no maximum period of time. Proposed Department of Health regulations specifically authorize hearing aid fitters to extend the trial period beyond the mandatory thirty (30) day period. At all material times hereto, the intention of Defendants in extending the trial period beyond thirty (30) days was for the benefit of the consumer to try the hearing aids and still retain their return privileges.

(E). Denied. All persons who purchase Song Bird hearing aids received a thirty (30) day money back guarantee for the Song Bird hearing aids and the full price of the hearing aid was refundable.

(F). Denied. All customers who received Song Bird hearing aids were provided with oral and written notice of the disclosure.

(G). Denied. The right of cancellation within three (3) days only applies to sales that were made in the home. The customers who purchase Song Bird hearing aids for $39.00 each were entitled to a full refund of the purchase price when cancellation was within thirty (30) days. If Song Bird hearing aids were purchased in the home, consumers were also given the opportunity to cancel within three (3) days for a full refunds. The $100.00 nonrefundable fitting and dispensing fee was not related to the Song Bird hearing aid, but rather, was for the company's service and was charged whether the Song Bird hearing aids were purchased or not purchased. All of the above was fully explained to consumers orally as well as on the contract.

(H). Neither admitted nor denied. Defendants are unable to admit or deny the allegations set forth in paragraph 5(h) inasmuch as sixteen (16) consumers are not identified. To the extent an answer is required, Defendants deny same inasmuch as Defendants charge of cancellation fees did not violate the Hearing Aid Sales Registration Act.

Attached hereto as Exhibit "B1" and "B2" are two (2) disclosure statements provided by the Pennsylvania Department of Health. Each disclosure statement breaks down the various parts of purchasing a hearing aid into various components. Exhibit "B1" supplied by the Pennsylvania Department of Health specifically sets forth: "Hearing aid: (includes earmold, if applicable.) Maximum cancellation fee is ten (10%) percent or $150.00,whichever is less." Nevertheless, the remainder of the form authorizes various other charges. Exhibit "B2" is a later form promulgated by the Department of Health. Therein, it recognizes that ten (10%) percent of the purchase price of the hearing aid and accessories or $150.00 may be charged a consumer when the hearing aid is refunded. However, the Department of Health sets forth in Exhibit "B2" the following: "You will, however, be responsible for all nonrefundable service fees listed in Part A. If you cancel your order prior to delivery, you are entitled to full refund of the purchase price of the aid and accessories, and a full refund for services not yet rendered.

The Pennsylvania Department of Health recognizes the difference between the mechanical hearing aid and other related services.

(I). Denied. Defendants incorporates each of the allegations set forth in Paragraph 5(h) as if set forth at length herein.

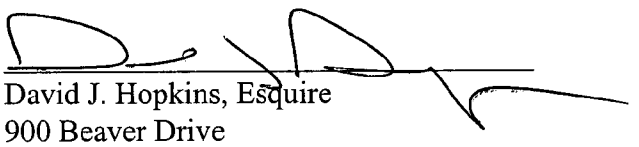
(J) Denied. An impression fee is different from an earmold. Defendants incorporate sample disclosure agreement B1 promulgated by the Pennsylvania Department of Health, wherein the Department of Health acknowledged the difference between "ear impression" and "earmold". By way of further answer, an earmold is an permanent accessory of the hearing aid. The Hearing Aid Sales Registration Act defines same in the definition of hearing aid.

6. Denied. As set forth in paragraph 5, each of the allegations of Section 5 are denied and there are significant factual issues which preclude this case from being decided on summary judgment.

7. Denied. Paragraph 7 calls for a legal conclusion for which no answer is required.

WHEREFORE, the Commonwealth's request for a partial summary judgment should be denied with prejudice.

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

Commonwealth of Pennsylvania :
: ss
County of Clearfield :

AFFIDAVIT

I, Joseph G. Pannette, being duly sworn according to law deposes and says as follows:

I have reviewed the Answer to Motion for Partial Summary Judgment and all factual statements made therein are true and accurate to the best of my knowledge, information and belief.

Date: January 29, 2004

Joseph G. Pannette

Sworn to and subscribed by me
this 30th of January, 2004.

Notary Public

NOTARIAL SEAL
Robina J. Thompson, Notary Public
DuBois, Clearfield County
My Commission Expires April 3, 2004

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 949-7900
FAX (814) 949-7942

April 19, 2000

Mark E. Jones
M.E. Jones Hearing Instruments
101 N. Main Street
P.O. Box 686
DuBois, PA 15801

RE: Charles E. Lewis
F00-0591TWC

Dear Mr. Jones:

After review of the above-referenced file, we are of the opinion that your business has engaged in conduct that violates the Hearing Aid Sales Registration Law (35 P.S. §6700-101 *et seq.*). Specifically, this Office maintains that your business engaged in unfair or deceptive acts and practices in violation of the Hearing Aid Sales Registration Law by failing to provide a disclosure agreement itemizing any and all fees and failing to provide a 30-day money back written guarantee (§6700-503.1(a)(2) and 504.1(a).

Your business' failure to comply with the above-referenced statute is considered an unfair method of competition and unfair or deceptive act and practice in violation of the Unfair Trade Practices and Consumer Protection Law (73 P.S. §201-1 *et seq.*).

A copy of the Unfair Trade Practices and Consumer Protection Law is enclosed for your review. Under the Unfair Trade Practices and Consumer Protection Law, the Attorney General is empowered to seek injunctive relief and civil penalties in the amount of one thousand dollars ($1,000.00) for each violation involved, which shall increase to three thousand dollars ($3,000.00) per violation where the victim is sixty years of age or older.

EXHIBIT "A"

This letter is formal warning of these past violations and puts your business on notice that future violations of the above statutes will be interpreted as willful and intentional violations and shall constitute grounds for the initiation of a formal investigation or legal action against your business.

If you have any questions regarding this letter or your obligations to comply with the Unfair Trade Practices and Consumer Protection Law and the Hearing Aid Sales Registration Law, I would suggest that you consult with private legal counsel.

Thank you for your attention to this matter.

Sincerely,

Margie A. Anderson

Margie A. Anderson
Deputy Attorney General

Enclosure

SAMPLE DISCLOSURE AGREEMENT

(Name of Business)_____

(Business Address)_____

Telephone No. (____)_____

Fees for the hearing aid and services/procedures are shown, and applicable amounts are listed in either the **Refundable** or **Not Refundable** column.

ITEM OR SERVICE	PRICE	REFUNDABLE	NOT REFUNDABLE
Client History	$	$	$
Hearing Screening: (Includes simplified puretone air conduction testing @ 500, 1000, 2000, 4000 Hz.)	$	$	$
Hearing Evaluation: (Includes all testing required by law.)	$	$	$
Ear Impression	$	$	$
Hearing Aid: (Includes earmold, if applicable.) Maximum cancellation fee is 10% or $150.00, whichever is less.	$	$	$
Fitting/Dispensing	$	$	$
Accessories (Specify)	$	$	$
Other (Specify)	$	$	$

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

_____ _____

Customer's Signature Date

_____ _____

Registrant's Signature Date

EXHIBIT "B1"

HEARING AID DISCLOSURE AGREEMENT/MONEY BACK GUARANTEE

(Business Name)_____(Business Address)_____

Telephone No. ( ) _____

PART A.

Description of services included in fitting procedure or process, and sale and delivery of hearing aid.	FEE (State whether fee is waived if hearing aid purchased)	REFUNDABLE (Upon return of hearing aids)	NOT REFUNDABLE

THIS DISCLOSURE AGREEMENT WAS PROVIDED, PARTS A AND B WERE EXPLAINED, AND PART A (FEES FOR SERVICES NOT PART OF THE PRICE OF THE HEARING AID) WAS COMPLETED AT _____(time) ON _____(date), BEFORE ANY SERVICES WERE PROVIDED. PART B (CANCELLATION FEES THAT WILL BE INCURRED IF A HEARING AID IS RETURNED UNDER THE 30-DAY MONEY BACK GUARANTEE BELOW), WAS COMPLETED AND EXPLAINED AFTER SERVICES WERE PROVIDED AND BEFORE ANY PAYMENT WAS MADE. IF PART B IS NOT COMPLETED, IT IS BECAUSE A HEARING AID WAS NOT RECOMMENDED OR NOT DESIRED.

_____ Customer's Signature

_____ Registrant's Signature

PART B.

HEARING AIDS & ACCESSORIES		DESCRIPTION of GOODS – include make, model, serial number(s)	PRICE	REFUNDABLE (upon return of hearing aid)	NOT REFUNDABLE (Cancellation Fee)
Hearing Aid(s)	Right				
	Left				
Accessories (Describe, if applicable)					
TOTAL					

Total maximum Cancellation Fee is lesser of 10% or $150 per hearing aid including accessories.

30 Day Money Back Guarantee: If a hearing aid is returned within 30 days of date of delivery in the same condition, ordinary wear and tear excluded, you are entitled to a refund of the portion of the purchase price of the hearing aid and accessories as itemized on the receipt and above, less the cancellation fee stated above. If a cancellation fee is imposed the nonrefundable amount for each aid and accessories cannot exceed 10% of the purchase price of the hearing aid and accessories or $150.00 per aid and accessories, whichever is less. You will, however, be responsible for all nonrefundable service fees listed in Part A. If you cancel your order prior to delivery, you are entitled to full refund of the purchase price of the aid and accessories, and a full refund for services not yet rendered.

_____ Customer's Signature

_____ Date and time of Sale

_____ DATE of DELIVERY

_____ Registrant's Signature

_____ Registration No.

_____ Customer's Signature or Initials

EXHIBIT "B2"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Motion for Partial Summary Judgment by Plaintiff Commonwealth of Pennsylvania, filed on behalf of Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., was forwarded on the 30th day of January, 2004, by facsimile and by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Respectfully submitted,

David J. Hopkins, Esquire

GA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER,	:	
Plaintiff	:	
V.	:	NO. 2001-1059-CD
MARK E. JONES, al	:	

ORDER

AND NOW, this 4th day of February, 2004, it is the ORDER of this Court that hearing with regard to Defendant's Petition for Contempt is hereby continued until Thursday, May 6, 2004, at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED

FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

Certified copies to:

Jeff DuBois, Esquire
David Hopkins, Esquire
John Ryan, Esquire
E. Barry Creany, Esquire
Frank T. Donaghue, Esquire

FILED
01:58 BN
FEB 04 2004

William A. Shaw
Prothonotary/Clerk of Courts

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. In the course of discovery in the matter of the Commonwealth v. Mark E. Jones, *et al.*, No. 01-1059.C.D., Clearfield County, my office served upon Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., First Sets of Interrogatories and Requests for Production of Documents.
4. In response to the Commonwealth's discovery requests, Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., provided Answers to Interrogatories and Requests for Production of Documents. Said documents included the 2000 W-3 Transmittal of Wage and Tax Statements of Marketing Specialists, Inc. and the 2000 W-2 Statements for Marketing Specialists, Inc.
5. Attached is to this Affidavit is the letter of Attorney David J. Hopkins, dated February 8, 2002, along with the Answers to Interrogatories and Requests for Production of Documents provided on behalf of Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc.

Date: 2/2/04

E. Barry Creany
E. Barry Creany
Senior Deputy Attorney General

FILED
01 10:30 BL
FEB 05 2004 No CC
William A. Shaw
Prothonotary/Clerk of Courts

THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkins@penn.com

February 8, 2002

RECEIVED
FEB 11 2002
Office of Attorney General

Mr. E. Barry Creany
Senior Deputy Attorney General
Commonwealth of Pennsylvania
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Re: Commonwealth vs. Mark E. Jones, et al.

Dear Mr. Creany:

Enclosed herewith please find Answers to Interrogatories and Request for Production of Documents for Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

cc: Mark E. Jones
Joseph G. Pannette
Marketing Specialists, Inc.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	
	Type of Pleading: Answer to Plaintiff's First Set of Interrogatories to Defendant Mark E. Jones
	Filed on behalf of: Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT MARK E. JONES

AND NOW, comes Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, Inc. by and through his attorneys, The Hopkins Law Firm, and answers Plaintiff's First Set of Interrogatories as follows:

1. Mark E. Jones, Joseph G. Pannette.
   Office staff also assisted in the photocopying and collection of materials.

2. Test individuals hearing and recommend and fit hearing aids if necessary.
   Service hearing aids following sale.
   Mark E. Jones is the dealer of M. E. Jones Hearing Instruments.

3. $200.00 per week – salary, plus commission less expenses.
   Commissions are determined based upon sales less expenses incurred by M. E. Jones Hearing Instruments in the production of the sale.

4. Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc.
   Marketing Specialists, Inc. provided the management, supervision and bookkeeping functions for M. E. Jones Hearing Instruments.

5. Ricky Pape – training.
Various manufacturers and professional consultants have provided training. Jerry G. Pannette and MSI.

6. 1999

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Jaclyn Formanek
Melissa France
Mark Jones
Richard Kerstetter
Renee Morelli
Luanne Muth
Ricky Pape
Joellen Pape
Wendy Smyers
Thomas Snedden

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape

7. Joseph G. Pannette and Ricky Pape.

8. Marketing Specialists, Inc. and Joseph G. Pannette.

9. Joseph G. Pannette and Mark E. Jones with the assistance of counsel.

10. Joseph G. Pannette with the assistance of counsel.

11. Oral explanation to customer together with disclosure agreement and standard contract with notice of cancellation (outside of office sales) and review of hearing examination.

12. The fitters are instructed to review each document with the customer. Complete each relevant section of the document, ask customer if they have any questions concerning the document and when customer is satisfied, have the customer sign the completed document.

13. Hearing aid fitters are instructed to utilize a schedule which is attached to this Interrogatory setting forth the impression fee, dispensing fee and cancellation fee as set forth therein. In no case does the cancellation fee exceed ten (10%) percent of the cost of the hearing aid or One Hundred Fifty ($150.00) Dollars.

14. 35 P.S. 3700 – 504.1 refers only to a "cancellation fee for return of a hearing aid and accessories". 35 P.S. 6701 - 503.1 (a)(2). Sample disclosure statement provided by Commonwealth of Pennsylvania.

15. See attached chart.

16. 35 P.S. 3700 – 504.1 refers only to a "cancellation fee for return of a hearing aid and accessories". 35 P.S. 6701 - 503.1 (a)(2). Sample disclosure statement provided by Commonwealth of Pennsylvania.

17. See attached chart.

18. See attached list.

19. Defendant does not rely upon any authority. Rather, a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

20. See attached list.

21. See attached list.

22. All testing required by the Commonwealth of Pennsylvania is performed upon a potential customer to identify if a customer qualifies for hearing aid in general and a Songbird Hearing Aid in particular. Songbird Hearing Aid has a specific machine which allows the customer to sample an exact replica of the hearing the customer will experience with their hearing aid to determine if the customer wishes to purchase Songbird Hearing Aids.

23. The dispensing procedure teaches the individual how to insert and remove the hearing aid and the care and maintenance of these hearing aids.

24. All hearing aid and accessories were supplied by Marketing Specialists, Inc.

25. Joseph G. Pannette and Marketing Specialists, Inc.

26. No.

27. See attached list.

28. John Ammerman - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

29. Charles Dillman - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

30. Paul Dornisch - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

31. Eloise Morrison - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

32. John Weller a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

33. Matt Missey cancelled hearing aids within three (3) days and received all money back including cancellation fees and dispensing fees.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	Type of Pleading: Answer to Plaintiff's First Request for Production of Documents to Defendant Mark E. Jones
	Filed on behalf of: Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT MARK E. JONES

AND NOW, comes Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments, Inc. by and through his attorneys, The Hopkins Law Firm, and answers Plaintiff's First Request for Production of Documents as follows:

1. Enclosed is 1999 and 2000 W-2 Wage and Tax Statement.

2. None.

3. Attached are W-2 Wage and Tax Statements for the years 1999 and/or 2000 for the following individuals:

   1999

   Randy Anderson
   Jodi Coccimigilo
   Bob Fauls
   Jaclyn Formanek
   Melissa France
   Mark Jones

Richard Kerstetter
Renee Morelli
Luanne Muth
Ricky Pape
Joellen Pape
Wendy Smyers
Thomas Snedden

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape

4. See attached disclosure statement put into use in April, 2000.

5. Disclosure and Guarantee form for Songbird Hearing Aids.

6. Patient Analysis Chart;
Medical Waiver;
M. E. Jones Hearing Instrument Contract;
Cancellation of Notice;
Disclosure Agreement (see Request for Production of Document No. 4).

7. See attached.

8. See attached Sales Contracts and Disclosure Agreements.

9. See attached.

10. See attached suggested retail price.

11. None.

12. See attached.

13. See attached.

14. See attached.

15. See attached.

16. See attached.

17. See attached.

18. See attached.

AFFIDAVIT

I, Mark E. Jones, do hereby state that the answers, responses and replies to the foregoing Interrogatories and Request for Production of Documents are full, complete, true and correct to the best of my information, knowledge and belief.

Date: 2/1/02

Mark E. Jones

Sworn and subscribed to before me

this 4th day of February, 2002

Notary

NOTARIAL SEAL
DAVID J. HOPKINS, Notary Public
DuBois, Clearfield County
My Commission Expires March 31, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Mark Jones, filed on behalf of Mark Jones, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	Type of Pleading: Answer to Plaintiff's First Set of Interrogatories to Defendant Joseph G. Pannette
	:	Filed on behalf of: Joseph G. Pannette
	:	Counsel of Record for this party:
	:	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	:	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	:	(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT JOSEPH G. PANNETTE

AND NOW, comes Joseph G. Pannette by and through his attorneys, The Hopkins Law Firm, and answers Plaintiff's First Set of Interrogatories as follows:

1. Mark E. Jones and Joseph G. Pannette.
   Office staff also assisted in the photocopying and collection of materials.

2. Owner of Marketing Specialists, Inc. that provides management services to M. E. Jones Hearing Instruments.

3. None.

4. Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc.
   Marketing Specialists, Inc. provided the management, supervision and bookkeeping functions for M. E. Jones Hearing Instruments.

5. Ricky Pape – training.
   Various manufacturers and professional consultants have provided training. Jerry G. Pannette and MSI.

6. 1999

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Jaclyn Formanek
Melissa France
Mark Jones
Richard Kerstetter
Renee Morelli
Luanne Muth
Ricky Pape
Joellen Pape
Wendy Smyers
Thomas Snedden

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape

7. Joseph G. Pannette and Ricky Pape.

8. Marketing Specialists, Inc. and Joseph G. Pannette.

9. Joseph G. Pannette and Mark E. Jones with the assistance of counsel.

10. Joseph G. Pannette with the assistance of counsel.

11. Oral explanation to customer together with disclosure agreement and standard contract with notice of cancellation (outside of office sales) and review of hearing examination.

12. The fitters are instructed to review each document with the customer. Complete each relevant section of the document, ask customer if they have

any questions concerning the document and when customer is satisfied, have the customer sign the completed document.

13. Hearing aid fitters are instructed to utilize a schedule which is attached to this Interrogatory setting forth the impression fee, dispensing fee and cancellation fee as set forth therein. In no case does the cancellation fee exceed ten (10%) percent of the cost of the hearing aid or One Hundred Fifty ($150.00) Dollars.

14. 35 P.S. 3700 – 504.1 refers only to a "cancellation fee for return of a hearing aid and accessories". 35 P.S. 6701 - 503.1 (a)(2). Sample disclosure statement provided by Commonwealth of Pennsylvania.

15. See attached chart.

16. 35 P.S. 3700 – 504.1 refers only to a "cancellation fee for return of a hearing aid and accessories". 35 P.S. 6701 - 503.1 (a)(2). Sample disclosure statement provided by Commonwealth of Pennsylvania.

17. See attached chart.

18. See attached list.

19. Defendant does not rely upon any authority. Rather, a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

20. See attached list.

21. See attached list.

22. All testing required by the Commonwealth of Pennsylvania is performed upon a potential customer to identify if a customer qualifies for hearing aid in general and a Songbird Hearing Aid in particular. Songbird Hearing Aid has a specific machine which allows the customer to sample an exact replica of the hearing the customer will experience with their hearing aid to determine if the customer wishes to purchase Songbird Hearing Aids.

23. The dispensing procedure teaches the individual how to insert and remove the hearing aid and the care and maintenance of these hearing aids.

24. All hearing aid and accessories were supplied by Marketing Specialists, Inc.

25. Joseph G. Pannette and Marketing Specialists, Inc.

26. No.

27. See attached list.

28. John Ammerman - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

29. Charles Dillman - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

30. Paul Dornisch - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

31. Eloise Morrison - a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

32. John Weller a clerical error took place in that the salesman set forth too high of a cancellation fee and his error was not detected by office staff.

33. Matt Missey cancelled hearing aids within three (3) days and received all money back including cancellation fees and dispensing fees.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	Type of Pleading: Answer to Plaintiff's First Request for Production of Documents to Defendant Joseph G. Pannette
	Filed on behalf of: Joseph G. Pannette
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT JOSEPH G. PANNETTE

AND NOW, comes Joseph G. Pannette, by and through his attorneys, The Hopkins Law Firm, and answers Plaintiff's First Request for Production of Documents as follows:

1. Enclosed is 1999 and 2000 Income Tax Return

2. None.

3. Attached are W-2 Wage and Tax Statements for the years 1999 and/or 2000 for the following individuals:

   1999

   Randy Anderson
   Jodi Coccimigilo
   Bob Fauls
   Jaclyn Formanek
   Melissa France
   Mark Jones

Richard Kerstetter
Renee Morelli
Luanne Muth
Ricky Pape
Joellen Pape
Wendy Smyers
Thomas Snedden

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape

4. See attached disclosure statement put into use in April, 2000.

5. Disclosure and Guarantee form for Songbird Hearing Aids.

6. Patient Analysis Chart;
Medical Waiver;
M. E. Jones Hearing Instrument Contract;
Cancellation of Notice;
Disclosure Agreement (see Request for Production of Document No. 4).

7. See attached.

8. See attached Sales Contracts and Disclosure Agreements.

9. See attached.

10. See attached suggested retail price.

11. None.

12. See attached.

13. See attached.

14. See attached.

15. See attached.

16. See attached.

17. See attached.

18. See attached.

AFFIDAVIT

I, Joseph G. Pannette, do hereby state that the answers, responses and replies to the foregoing Interrogatories and Request for Production of Documents are full, complete, true and correct to the best of my information, knowledge and belief.

Date: _____

Joseph G. Pannette

Sworn and subscribed to before me

this 4th day of February, 2002

Notary

NOTARIAL SEAL
DAVID J. HOPKINS, Notary Public
DuBois, Clearfield County
My Commission Expires March 31, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

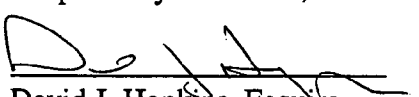
COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette, filed on behalf of Joseph G. Pannette, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	
	Type of Pleading: Answer to Plaintiff's First Set of Interrogatories to Defendant Marketing Specialists, Inc.
	Filed on behalf of: Marketing Specialist, Inc.
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANT MARKETING SPECIALISTS, INC.

AND NOW, comes Marketing Specialists, Inc. by and through its attorneys, The Hopkins Law Firm, and answers Plaintiff's First Set of Interrogatories as follows:

1. Joseph G. Pannette.
   Office staff also assisted in the photocopying and collection of materials.

2. 1999
   Randy Anderson
   Jodi Coccimigilo
   Bob Fauls
   Jaclyn Formanek
   Melissa France
   Mark Jones
   Richard Kerstetter
   Renee Morelli
   Luanne Muth
   Ricky Pape
   Joellen Pape

Wendy Smyers
Thomas Snedden
Josephine Shaffer
Joseph G. Pannette

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape
Josephine Shaffer
Joseph G. Pannette

3. Marketing Specialists, Inc. is owned by Joseph G. Pannette who is the sole officer, director and shareholder.

4. Marketing Specialists, Inc. manufactures, markets, services and provides management services to the hearing aid business in general and M. E. Jones Hearing Instruments in particular.

5. Marketing Specialists, Inc. manufactures or acquires all of the hearing aids purchased by M. E. Jones Hearing Instruments. Marketing Specialists, Inc. provides marketing, servicing and management services for M. E. Jones Hearing Instruments.

6. Marketing Specialists, Inc. manufactures or acquires all of the hearing aids purchased by M. E. Jones Hearing Instruments. Marketing Specialists, Inc. provides the marketing, servicing and management services for M. E. Jones Hearing Instruments.

7. M. E. Jones Hearing Instruments.

8. Electone, Starkey, Midstate Labs, Microsonic, Hal-hen, Audina.

9. Marketing Specialists, Inc. provided management, payroll and accounting

services for M. E. Jones Hearing Instruments, Inc.

10. See attached 1998 and 1999 tax returns.

11. See attached 1998 and 1999 tax returns.

12. All hearing aids which were cancelled by customers of M. E. Jones were returned to Marketing Specialists.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	Type of Pleading: Answer to Plaintiff's First Request for Production of Documents to Defendant Marketing Specialists, Inc.
	Filed on behalf of: Marketing Specialist, Inc.
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

ANSWER TO PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT MARKETING SPECIALISTS, INC.

AND NOW, comes Marketing Specialists, Inc., by and through its attorneys, The Hopkins Law Firm, and answers Plaintiff's First Request for Production of Documents as follows:

1. See attached W-2 Wage and Tax Statement for the following individuals:

1999

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Jaclyn Formanek
Melissa France
Mark Jones
Richard Kerstetter
Renee Morelli
Luanne Muth
Ricky Pape
Joellen Pape

Wendy Smyers
Thomas Snedden
Josephine Shaffer
Joseph G. Pannette

2000

Randy Anderson
Jodi Coccimigilo
Bob Fauls
Mark Jones
Richard Kerstetter
Thomas Snedden
Lon Amilkavich
Kellie Armogost
Richele Esposito
Melissa France
Trudy Graham
Christine Holmes
Joellen Pape
Ricky Pape
Josephine Shaffer
Joseph G. Pannette

2. Enclosed is 1999 and 2000 W-2 Wage and Tax Statement.

3. See attached 1998 1120-S for the period October 1, 1998 through September 30, 1999.

   See attached 1999 1120-S for the period October 1, 1999 through September 30, 2000.

4. See suggested retail price list attached hereto.

5. See attached tax returns.

6. None.

7. See attached tax returns.

8. See attached tax returns.

9. None.

AFFIDAVIT

I, Joseph G. Pannella, d/b/a Marketing Specialists, Inc., do hereby state that the answers, responses and replies to the foregoing interrogatories and Request for Production of Documents are full, complete, true and correct to the best of my information, knowledge and belief.

MARKETING SPECIALISTS, INC.

Date: _____

Sworn and subscribed to before me

this 4th day of February, 2002

Notary

NOTARIAL SEAL
DAVID J. HOPKINS, Notary Public
DuBois, Clearfield County
My Commission Expires March 31, 2003

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

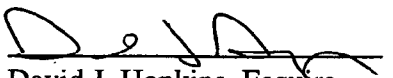
COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Answer to Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant Joseph G. Pannette, filed on behalf of Joseph G. Pannette, was forwarded on the 8th day of February, 2002, by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Respectfully submitted,



David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

DO NOT STAPLE OR FOLD

a Control number	33333	For Official Use Only ► OMB No. 1545-0008	
b Kind of Payer: 941 ☐ Military ☐ 943 ☐ CT-1 ☐ Hshld. emp. ☐ Medicare govt. emp. ☐		1 Wages, tips, other compensation 196292.45	2 Federal income tax withheld 22122.50
		3 Social security wages 196292.45	4 Social security tax withheld 12170.14
c Total number of Forms W-2 15	d Establishment number	5 Medicare wages and tips 196292.45	6 Medicare tax withheld 2845.80
e Employer identification number 25-1462338		7 Social security tips	8 Allocated tips
f Employer's name Marketing Specialists, Inc.		9 Advance EIC payments	10 Dependent care benefits
101 N Main Street DuBois, PA 15801		11 Nonqualified plans	12 Deferred compensation
		13	
g Employer's address and ZIP code		14	
h Other EIN used this year		15 Income tax withheld by third-party payer	
i Employer's state I.D. no.			
Contact person	Telephone number ( )	Fax number ( )	E-mail address

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ► Title ► Date ►

Form W-3 Transmittal of Wage and Tax Statements 2000

Department of the Treasury Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Photocopies are NOT acceptable.
Do NOT send any remittance (cash, checks, money orders, etc.) with Forms W-2 and W-3.

An Item To Note

Separate instructions. See the separate **2000 Instructions for Forms W-2 and W-3** for information on completing this form.

Purpose of Form

Use this form to transmit Copy A of **Form(s) W-2,** Wage and Tax Statement. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Form(s) W-2 on magnetic media or electronically, **do not** file Form W-3.

When To File

File Form W-3 with Copy A of Form(s) W-2 by February 28, 2001.

Where To File

Send this entire page with the entire Copy A page of Form(s) W-2 to:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

Note: *If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See* ***Circular E,*** *Employer's Tax Guide (Pub. 15), for a list of IRS approved private delivery services.*

For Privacy Act and Paperwork Reduction Act Notice, see the 2000 Instructions for Forms W-2 and W-3.

DETACH BEFORE MAILING

MANUFACTURED IN U.S.A. ON OCR LASER BOND PAPER USING HEAT RESISTANT INKS

5200

Form

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 7115.00	2 Federal income tax withheld 597.20
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 7115.00	4 Social security tax withheld 441.13
			5 Medicare wages and tips 7115.00	6 Medicare tax withheld 103.07
			7 Social security tips	8 Allocated tips
d Employee's social security number 201-50-1849			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Lon Amilkavich			11 Nonqualified plans	12 Benefits included in box 1
103 Hill Street DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	7115.00	141.22		7115.00	66.13

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

48-0971237

Do NOT Cut, Fold, or Staple Forms on This Page — Do NOT Cut, Fold, or Staple Forms on This Page

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 24700.00	2 Federal income tax withheld 3458.00
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 24700.00	4 Social security tax withheld 1531.40
			5 Medicare wages and tips 24700.00	6 Medicare tax withheld 358.02
			7 Social security tips	8 Allocated tips
d Employee's social security number 179-54-8774			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Randy Anderson			11 Nonqualified plans	12 Benefits included in box 1
RDA Box 155 DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	24700.00	611.60		24700.00	247.00

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

48-0971237

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Adams
TX401-4 PT.
TX601-6 PT.
TX601CD-6 PT. Softw
TRACER #046829C

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 1073.70	2 Federal income tax withheld 85.91
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 1073.70	4 Social security tax withheld 66.57
			5 Medicare wages and tips 1073.70	6 Medicare tax withheld 15.57
			7 Social security tips	8 Allocated tips
d Employee's social security number 175-68-8513			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Kellie Aromogost			11 Nonqualified plans	12 Benefits included in box 1
18 E Washington Avenue DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	1073.70	30.07		1073.70	10.73

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

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48-0971237

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 5000.50	2 Federal income tax withheld 616.66
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 5000.50	4 Social security tax withheld 310.03
			5 Medicare wages and tips 5000.50	6 Medicare tax withheld 72.51
			7 Social security tips	8 Allocated tips
d Employee's social security number 189-68-2782			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Jodi Coccimiglio			11 Nonqualified plans	12 Benefits included in box 1
RD1 Box 209 Penfield, PA 15849			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	5000.50	140.01		5000.50	50.01

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

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48-0971237

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Adams
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TX601-6 PT.
TX601CD-6 PT. Softw
TRACER #046829C

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 7546.12	2 Federal income tax withheld 603.69
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 7546.12	4 Social security tax withheld 467.86
			5 Medicare wages and tips 7546.12	6 Medicare tax withheld 109.41
			7 Social security tips	8 Allocated tips
d Employee's social security number 177-48-4937			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Richele Esposito			11 Nonqualified plans	12 Benefits included in box 1
RR3 Apt 47 Dubois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	7546.12	211.30		7546.12	75.45

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate Instructions.

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48-0971237

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 10865.00	2 Federal income tax withheld 909.88
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 10865.00	4 Social security tax withheld 673.63
			5 Medicare wages and tips 10865.00	6 Medicare tax withheld 157.54
			7 Social security tips	8 Allocated tips
d Employee's social security number 167-42-0504			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Bob Fauls			11 Nonqualified plans	12 Benefits included in box 1
RR1 Box 26 Reynoldsville, PA 15851			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	10865.00	304.23		10865.00	108.65

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate Instructions.

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48-0971237

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Adams
TX401-4 PT.
TX601-6 PT.
TX601CD-6 PT. Softw
TRACER #046829(

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 6661.27	2 Federal income tax withheld 731.74
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 6661.27	4 Social security tax withheld 413.00
			5 Medicare wages and tips 6661.27	6 Medicare tax withheld 96.58
			7 Social security tips	8 Allocated tips
d Employee's social security number 191-52-7956			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Melissa France			11 Nonqualified plans	12 Benefits included in box 1
154 Terrace Road St Marys, PA 15857			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	6661.27	186.53		6661.27	67.12

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

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48-0971237

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 1432.81	2 Federal income tax withheld 114.63
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 1432.81	4 Social security tax withheld 88.83
			5 Medicare wages and tips 1432.81	6 Medicare tax withheld 20.78
			7 Social security tips	8 Allocated tips
d Employee's social security number 177-48-3841			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Trudy Graham			11 Nonqualified plans	12 Benefits included in box 1
RD1 Box 159 Rockton, PA 15856			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	1432.81	40.12		1432.81	14.32

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

Copy A For Social Security Administration—Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

48-0971237

DETACH BEFORE MAILING

Adams
TX401-4 PT.
TX601-6 PT.
TX601CD-6 PT. Softw
TRACER #046829(

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 2254.33	2 Federal income tax withheld 180.34
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 2254.33	4 Social security tax withheld 139.77
			5 Medicare wages and tips 2254.33	6 Medicare tax withheld 32.73
			7 Social security tips	8 Allocated tips
d Employee's social security number 195-66-4877			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Christine Holmes			11 Nonqualified plans	12 Benefits included in box 1
15 Rumbarger Avenue DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	2254.33	63.13		2254.33	22.54

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

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48-0971237

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 23514.63	2 Federal income tax withheld 2326.55
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 23514.63	4 Social security tax withheld 1457.91
			5 Medicare wages and tips 23514.63	6 Medicare tax withheld 340.85
			7 Social security tips	8 Allocated tips
d Employee's social security number 176-56-2093			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Mark Jones			11 Nonqualified plans	12 Benefits included in box 1
1204 Treasure Lake DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	23514.63	658.47		23514.63	235.19

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

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48-0971237

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TRACER #046829(

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 45645.00	2 Federal income tax withheld 6876.62
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 45645.00	4 Social security tax withheld 2829.99
			5 Medicare wages and tips 45645.00	6 Medicare tax withheld 661.88
			7 Social security tips	8 Allocated tips
d Employee's social security number 162-62-2129			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Richard Kerstetter			11 Nonqualified plans	12 Benefits included in box 1
545 Treasure Lake DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☒ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	45645.00	1278.54		45645.00	456.45

Form **W-2** **Wage and Tax Statement** **2000**

Department of the Treasury—Internal Revenue Service

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 10700.00	2 Federal income tax withheld 1129.00
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 10700.00	4 Social security tax withheld 663.40
			5 Medicare wages and tips 10700.00	6 Medicare tax withheld 155.15
			7 Social security tips	8 Allocated tips
d Employee's social security number 159-66-4535			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) JoEllen Pape			11 Nonqualified plans	12 Benefits included in box 1
470 Treasure Lake DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	10700.00	299.60		10700.00	107.00

Form **W-2** **Wage and Tax Statement** **2000**

Department of the Treasury—Internal Revenue Service

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TRACER #046829C

a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 27856.19	2 Federal income tax withheld 2738.09
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 27856.19	4 Social security tax withheld 1727.09
			5 Medicare wages and tips 27856.19	6 Medicare tax withheld 403.88
			7 Social security tips	8 Allocated tips
d Employee's social security number 208-42-8293			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Ricky Pape			11 Nonqualified plans	12 Benefits included in box 1
470 Treasure Lake DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	27856.19	781.59		27856.19	279.18

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 7626.50	2 Federal income tax withheld 609.92
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 7626.50	4 Social security tax withheld 472.84
			5 Medicare wages and tips 7626.50	6 Medicare tax withheld 110.53
			7 Social security tips	8 Allocated tips
d Employee's social security number 159-52-5498			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Josephine Shaffer			11 Nonqualified plans	12 Benefits included in box 1
16 Brown Street DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	7626.50	212.52		7626.50	76.26

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number 25-1462338			1 Wages, tips, other compensation 14301.40	2 Federal income tax withheld 1144.27
c Employer's name, address, and ZIP code Marketing Specialists, Inc 101 N Main Street DuBois, PA 15801			3 Social security wages 14301.40	4 Social security tax withheld 886.69
			5 Medicare wages and tips 14301.40	6 Medicare tax withheld 207.30
			7 Social security tips	8 Allocated tips
d Employee's social security number 165-48-6937			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last) Tom Snedden			11 Nonqualified plans	12 Benefits included in box 1
440 Pifer Street DuBois, PA 15801			13 See instrs. for box 13	14 Other 0.00
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax
PA	25-1462338	14301.40	395.41		14301.40	143.02

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

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a Control number	22222	Void ☐	For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number			1 Wages, tips, other compensation	2 Federal income tax withheld
c Employer's name, address, and ZIP code			3 Social security wages	4 Social security tax withheld
			5 Medicare wages and tips	6 Medicare tax withheld
			7 Social security tips	8 Allocated tips
d Employee's social security number			9 Advance EIC payment	10 Dependent care benefits
e Employee's name (first, middle initial, last)			11 Nonqualified plans	12 Benefits included in box 1
			13 See instrs. for box 13	14 Other
f Employee's address and ZIP code			15 Statutory employee ☐ Deceased ☐ Pension plan ☐ Legal rep. ☐ Deferred compensation ☐	

16 State	Employer's state I.D. no.	17 State wages, tips, etc.	18 State income tax	19 Locality name	20 Local wages, tips, etc.	21 Local income tax

Form **W-2** Wage and Tax Statement **2000**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.

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48-0971237

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01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. In the course of discovery in the matter of Commonwealth v. Mark E. Jones, *et al.*, No. 01-1059.C.D., Clearfield County, the Commonwealth filed a Motion to Compel Discovery.
4. By Order dated April 25, 2002, the Honorable John K. Reilly, Jr., directed Defendants Mark E. Jones and Marketing Specialists, Inc., to provide information in response to discovery requests which the Commonwealth had served upon them.
5. By letter of Attorney David J. Hopkins, dated May 15, 2002, responses pursuant to Judge Reilly's Order were provided to the Commonwealth.
6. A true and correct copy of the letter of Attorney David J. Hopkins, dated May 15, 2002, is attached to this Affidavit.

Date:

E. Barry Creany
Senior Deputy Attorney General

FILED
01/10:30 BH
FEB 05 2004
William A. Shaw
Prothonotary/Clerk of Courts
no cc

THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkins@penn.com

Lea Ann Heltzel
Licensed in PA

RECEIVED
MAY 2 0 2002
Office of Attorney General

May 15, 2002

Facsimile: 814-471-1840

Mr. E. Barry Creany
Senior Deputy Attorney General
Commonwealth of Pennsylvania
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Re: Commonwealth v. M. E. Jones Hearing Instruments, et al.
No. 01-1059 C.D.

Dear Mr. Creany:

Pursuant to Judge Reilly's Order of April 25, 2002, kindly accept the following information:

Defendant – Mark E. Jones

1. Mark E. Jones receives $15,000.00 per year as the dealer ($10,400.00 as cash and $4,600.00 for health insurance). Jones also has an accountable expense account. Jones is paid a commission on hearing aids he sells. The commission is based on whether the sale is the result of a user call, office referral, lead generated by advertising or self generated lead. The commission is also based on the type and price of the hearing aid sold.

2. Defendant Mark E. Jones as fully identified the various manufacturers and consultants who have provided training services.

3. David J. Hopkins, Esquire, is the only counsel who has provided assistance with relation to the Songbird Hearing Aid Sales Disclosure form.

4. The $100.00 fee for fitting and/or processing associated with the sale of Songbird disposal hearing aids cannot be broken down into components.

5. Mark E. Jones verifies that to the best knowledge, information and belief, all correspondence to and from consumers who cancelled transactions together with documents in support thereof have heretofore been provided to the Plaintiff.

Mark E. Jones

Marketing Specialists Inc.

1. All monies received by Marketing Specialists Inc. from M. E. Jones are for hearing aids sold by M. E. Jones. Marketing Specialists, Inc. does not bill M. E. Jones separately for management services or for back office work completed by Marketing Specialists, Inc. that benefits M. E. Jones.

2. The federal income tax return for the year 2000 (October 1, 2000 through September 30, 2001) has not yet been completed. Defendant will provide said tax return when same has been completed and filed with the United States Department of Treasury.

3. All monies received by Marketing Specialists Inc. from M. E. Jones for the years 1998, 1999 and 2000 are for hearing aids sold by M. E. Jones. Marketing Specialists, Inc. does not bill Jones separately for management services or for back office work completed by Marketing Specialists, Inc. that benefits M. E. Jones.

Marketing Specialists, Inc.

By:
Joseph G. Pannette

I believe my clients have now complied in total with Judge Reilly's Order. However, should you have any questions or concerns, please feel free to contact me.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.

2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.

3. After providing initial responses to discovery requests served upon Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., in the matter of the Commonwealth v. Mark E. Jones, *et al.*, No. 01-1059.C.D., Clearfield County, I requested more complete responses from said defendants.

4. By letter dated March 14, 2002, Attorney David J. Hopkins provided additional discovery responses on behalf of Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialits, Inc.

5. A true and correct copy of the letter of Attorney David J. Hopkins, dated March 14, 2002, along with its enclosures are attached to this Affidavit.

Date:

E. Barry Creany
Senior Deputy Attorney General

FILED
01/10:30/61
FEB 05 2004
NO CC
William A. Shaw
Prothonotary/Clerk of Courts

THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkins@penn.com

Lea Ann Heltzel
Licensed in PA

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MAR 19 2002
Office of Attorney General

March 14, 2002

Facsimile: 814-471-1840

Mr. E. Barry Creany
Senior Deputy Attorney General
Commonwealth of Pennsylvania
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Re: Commonwealth v. M. E. Jones Hearing Instruments, et al.
No. 01-1059 C.D.

Dear Mr. Creany:

Pursuant to your correspondence of March 4, 2002, enclosed herewith please find the following information:

ADDITIONAL RESPONSES OF MARK E. JONES

3. Attached hereto is a current commission schedule. The determination of commissions is a somewhat complicated determination. Factors which are relavent are whether the sale was self generated or if the sale was the result of marketing. In addition, the commission is also based on the sale price and whether coupons or some other special discount was utilized by the customer.

4. Mark E. Jones overseeing contracts, paperwork and technical fitting (making sure patients were fitted with the proper hearing aid) all of the above for the period December 20, 1998 through the present. Joseph G. Pannette and Marketing Specialists, Inc. provided the management, supervision and bookkeeping functions for M. E. Jones Hearing Instruments for the period December 20, 1998 through the present.

5. Mark E. Jones, Ricky Pape and Thomas Snedden received continuing education as required by the state of Ohio and/or national board certification program. The manufacturers were professional consultants who conducted the classes and/or

programs are unknown. One or more of the aforesaid individuals returned to M. E. Jones Hearing Instruments and provided training to salespeople of M. E. Jones Hearing Instruments on their learning from the aforesaid continuing education. In addition thereto, M. E. Jones Hearing Instruments has continuing updates to its employees from information gathered from manufacturers and/or other relevant sources. One manufacturer in particular would be Electone, Inc. whose address has been provided herein. In addition, Donald Trizino of Audio Hearing Services whose address is Dover, Ohio has sponsored training to M. E. Jones Hearing Instrument employees.

9. Attorney client privilege.

10. Attorney client privilege.

13. See attached chart.

15. See attached chart.

17. See attached chart.

22. a. Obtain medical history/case history.

b. Complete ear inspection.

c. Pure tone air and bone conduction testing.

d. Speech testing, including speech reception threshold.

e. Determine MCL levels.

f. Determine UCL levels.

g. Obtain speech discrimination scores.

h. Use Songbird format selector to determine fitting. Determine fitting.

i. Determine appropriate dispense Songbird hearing aid.

j. Cost associated with sale of Songbird include:

1. Cost of regular testing equipment.

2. Cost of specialized Songbird equipment.

3. Office costs for specialized paperwork for Songbird Hearing aids.

4. Advertising for Songbird Hearing aids.

5. Office overhead.

6. Fitter's time and expenses.

7. Professional fees to determine whether an individual is a candidate for Songbird Hearing aids.

8. Total cost to the consumer is $100.00 per ear.

MARK E. JONES DOCUMENT REQUEST.

9. All correspondence to or from consumers was heretofore submitted with the consumer's file. Evidence of refunds paid is also in the file in the nature of a copy of a check.

10. See attached.

ADDITIONAL RESPONSES OF JOSEPH G. PANNETTE

4. Mark E. Jones overseeing contracts, paperwork, technical and fitting (making sure patients were fitted with the proper hearing aid) all of the above for the period December 20, 1998 through the present. Joseph G. Pannette and Marketing Specialists, Inc. provide the management, supervision and bookkeeping functions for M. E. Jones Hearing Instruments for the period December 20, 1998 through the present.

5. Mark E. Jones, Ricky Pape and Thomas Snedden received continuing education as required by the state of Ohio and/or National Board certification. Those individuals obtained continuing education. The manufacturers were professional consultants who conducted the classes and/or programs are unknown. One or more of the aforesaid individuals returned to M. E. Jones Hearing Instruments and provided training to sale people of M. E. Jones Hearing Instruments on their learning from the aforesaid continuing education. In addition thereto, M. E. Jones Hearing Instruments has continuing updates to its employees from information gathered from manufacturers and/or other relevant sources. One manufacturer in particular would be Electone, Inc. whose address has been heretofore provided. In addition, Donald Trizino of Audio Hearing Services whose address is Dover, Ohio has sponsored training to M. E. Jones Hearing Instrument employees.

7. The following is an updated and amended Answer to Interrogatory No. 7 addressed to Joseph G. Pannette:

a. Joseph G. Pannette, Ricky Pape, Mark E. Jones, Pennsylvania Department of Health, Pennsylvania Hearing Aid Dealers Association, Office of the Attorney General – Bureau of Consumer Protection and counsel.

b. Department of Health – advised on sample disclosure agreement to be utilized.

c. Pennsylvania Hearing Aid Dealers Association – advised on sample disclosure agreement to be utilized.

d. Attorney General, Office of Consumer Affairs – advised disclosure forms should be disclosed to all patients itemizing cancellation fees and other relevant charges.

e. Joseph G. Pannette, Ricky Pape and Mark E. Jones absorbed all of the information from the entities set forth above and modified the contracts, created Songbird contract and created disclosure form.

9. Attorney client privilege.

10. Attorney client privilege.

13. See attached chart.

15. See attached chart.

17. See attached chart.

22. a. Obtain medical history/case history.

b. Complete ear inspection.

c. Pure tone air and bone conduction testing.

d. Speech testing, including speech reception threshold.

e. Determine MCL levels.

f. Determine UCL levels.

g. Obtain speech discrimination scores.

h. Use Songbird format selector to determine fitting.
Determine fitting.

i. Determine appropriate dispense Songbird hearing aid.

j. Cost associated with sale of Songbird include:

1. Cost of regular testing equipment.

2. Cost of specialized Songbird equipment.

3. Office costs for specialized paperwork for Songbird Hearing aids.

4. Advertising for Songbird Hearing aids.

5. Office overhead.

6. Fitter's time and expenses.

7. Professional fees to determine whether an individual is a candidate for Songbird Hearing aids.

8. Total cost to the consumer is $100.00 per ear.

JOSEPH G. PANNETTE DOCUMENT REQUEST.

9. All correspondence to or from consumers was heretofore submitted with the consumer's file. Evidence of refunds paid is also in the file in the nature of a copy of a check.

11. See attached.

ADDITIONAL RESPONSES OF MARKETING SPECIALISTS, INC.

6. Defendant Marketing Specialists, Inc. believes its answer to Interrogatory No. 6 is responsive to the question proposed.

8. Electone, Inc.
1124 Florida Central Parkway
Longwood, FL 32750

Starkey Labs
6700 Washington Avenue South
Eden Prairie, MN 55344

Mid States Laboratories
600 N. St. Francis
Wichita, KS 67214

Microsonic
P.O. Box 184
Ambridge, PA 15003

Hal Hen Co.
35-53 24th Street
Long Island City, NY 11106

Audina Hearing Instruments, Inc.
165 East Wildmere Street
Longwood, FL 32750

Patterson Dental
1031 Mendota Heights Road
St. Paul, MN 55120

10. All of Marketing Specialists, Inc.'s revenue for the years 1999 and 2000 identified on Defendant's 1998 and 1999 tax returns were received from M. E. Jones Hearing Instruments. Therefore, gross revenue, as set forth on the tax returns, is the amount of monies Marketing Specialists, Inc. received from M. E. Jones Hearing Instruments for hearing aids or accessories.

11. All of Marketing Specialists, Inc.'s revenue for the years 1999 and 2000 identified on Defendant's 1998 and 1999 tax returns were received from M. E. Jones Hearing Instruments. Therefore, gross revenue, as set forth on the tax returns, is the amount of monies Marketing Specialists, Inc. received from M. E. Jones Hearing Instruments for hearing aids or accessories. Marketing Specialists, Inc. does not charge M. E. Jones Hearing Instruments for specific services. All services are included in the price of the hearing aids and accessories.

MARKETING SPECIALISTS, INC. DOCUMENT REQUEST

3. The income tax return marked 1999 runs for the period October 1, 1999 through September 30, 2000. This return was supplied. A tax return for the period October 1, 2000 through September 30, 2001 (which would be identified as 2000 on page 1 of the return) has not been produced.

4. See attached.

5. Previously supplied to Plaintiff for all of the contracts for hearing aids sold by M. E. Jones Hearing Instruments in the Commonwealth of Pennsylvania. Each of those was provided by Marketing Specialists, Inc. In addition, Marketing Specialists, Inc. sold M. E. Jones 116 hearing aids or accessories that M. E. Jones Hearing Instruments sold outside of the Commonwealth of Pennsylvania.

7. All of Marketing Specialists, Inc.'s revenue for the years 1999 and 2000 identified on Defendant's 1998 and 1999 tax returns were received from M. E. Jones Hearing Instruments. Therefore, gross revenue, as set forth on the tax returns, is the amount of monies Marketing Specialists, Inc. received from M. E. Jones Hearing Instruments for hearing aids or accessories.

8. All of Marketing Specialists, Inc.'s revenue for the years 1999 and 2000 identified on Defendant's 1998 and 1999 tax returns were received from M. E. Jones Hearing Instruments. Therefore, gross revenue, as set forth on the tax returns, is the amount of monies Marketing Specialists, Inc. received from M. E. Jones Hearing Instruments for hearing aids or accessories. Marketing Specialists, Inc. does not charge M. E. Jones Hearing Instruments for specific services. All services are included in the price of the hearing aids and accessories.

9. There are no documents.

Hopefully this letter answers all of the concerns raised by your letter of March 4, 2002.

As I set forth in my earlier letter, I believe all of our answers were responsive initially. I have no objection to follow up questions; however, I question the appropriateness of the Motion for Sanction which you filed. However, Judge Reilly can address that issue as he deems appropriate.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

Enclosures

I certify the answers set forth in the Answer to Interrogatories are correct to the best of my knowledge.

Mark E. Jones

Joseph G. Pannette

Marketing Specialists, Inc.

By:
Joseph G. Pannette

FULL	1000		MINI BAT AUTO	1550
FULL PP BTC	1100		CD AUTO CANAL	1600
SUPER	1200		EQ AUTO CANAL	
CD FULL 1/2	1300		CD MINI AUTO	1650
EQ FULL			EQ MINI AUTO	
1/2 CD			CIC TSP	1900
1/2 EQ			PROG FULL I	2000
CANAL	1400		PROG FULL II	2050
RECH			PROG FULL MEM PH	2100
FULL BAT AUTO			PROG FULL I AUTO	2150
SUPER BAT AUTO			PROG FULL II AUTO	2200
1/2 BAT AUTO			PROG 1/2 SHELL I	
MINI CANAL			PROG 1/2 SHELL II	2250
CD CANAL	1500		PROG 1/2 MEM PH	2300
EQ CANAL			PROG 1/2 SH AUTO I CH.	2350
CD MINI			PROG 1/2 SH AUTO II CH.	2400
EQ MINI			PROG CANAL AUTO I CH.	2450
CD RECH			PROG CANAL AUTO II CH.	2500
AUTO			PROG MINI I AUTO	2550
CD AUTO			PROG MINI II AUTO	2600
SUPER CD AUTO			PROG CIC I	2900
FULL EQ AUTO			PROG CIC II	3000
CD 1/2 AUTO				
EQ 1/2 AUTO				
CANAL AUTO				

FULL	1000		MINI BAT AUTO	1550
FULL PP BTE	1100		CD AUTO CANAL	1600
SUPER	1200		EQ AUTO CANAL	
CD FULL 1/2	1300		CD MINI AUTO	1650
EQ FULL			EQ MINI AUTO	
1/2 CD			CIC TSP	1900
1/2 EQ			PROG FULL I	2000
CANAL	1400		PROG FULL II	2050
RECH			PROG FULL MEM PH	2100
FULL BAT AUTO			PROG FULL I AUTO	2150
SUPER BAT AUTO			PROG FULL II AUTO	2200
1/2 BAT AUTO			PROG 1/2 SHELL I	
MINI CANAL			PROG 1/2 SHELL II	2250
CD CANAL	1500		PROG 1/2 MEM PH	2300
EQ CANAL			PROG 1/2 SH AUTO I CH.	2350
CD MINI			PROG 1/2 SH AUTO II CH.	2400
EQ MINI			PROG CANAL AUTO I CH.	2450
CD RECH			PROG CANAL AUTO II CH.	2500
AUTO			PROG MINI I AUTO	2550
CD AUTO			PROG MINI II AUTO	2600
SUPER CD AUTO			PROG CIC I	2900
FULL EQ AUTO			PROG CIC II	3000
CD 1/2 AUTO				
EQ 1/2 AUTO				
CANAL AUTO				

FULL	1000		MINI BAT AUTO	1550
FULL PP BTE	1100		CD AUTO CANAL	1600
SUPER	1200		EQ AUTO CANAL	
CD FULL 1/2	1300		CD MINI AUTO	1650
EQ FULL			EQ MINI AUTO	
1/2 CD			CIC TSP	1900
1/2 EQ			PROG FULL I	2000
CANAL	1400		PROG FULL II	2050
RECH			PROG FULL MEM PH	2100
FULL BAT AUTO			PROG FULL I AUTO	2150
SUPER BAT AUTO			PROG FULL II AUTO	2200
1/2 BAT AUTO			PROG 1/2 SHELL I	
MINI CANAL			PROG 1/2 SHELL II	2250
CD CANAL	1500		PROG 1/2 MEM PH	2300
EQ CANAL			PROG 1/2 SH AUTO I CH.	2350
CD MINI			PROG 1/2 SH AUTO II CH.	2400
EQ MINI			PROG CANAL AUTO I CH.	2450
CD RECH			PROG CANAL AUTO II CH.	2500
AUTO			PROG MINI I AUTO	2550
CD AUTO			PROG MINI II AUTO	2600
SUPER CD AUTO			PROG CIC I	2900
FULL EQ AUTO			PROG CIC II	3000
CD 1/2 AUTO				
EQ 1/2 AUTO				
CANAL AUTO				

FULL	MOLD	DISP	INSTRUM	CANC.	TOT.
600	35	150	415	41.50	226.50
650	35	150	465	46.50	231.50
700	35	150	515	51.50	236.50
750	35	150	565	56.50	241.50
800	35	150	615	61.50	246.50
850	35	150	665	66.50	251.50
900	35	150	715	71.50	256.50
950	35	150	765	76.50	261.50
1000	35	150	815	81.50	266.50
1050	35	150	865	86.50	271.50
1100	35	150	915	91.50	276.50
1150	35	150	965	96.50	281.50
1200	35	150	1015	101.50	286.50
1250	35	150	1065	106.50	291.50
1300	35	150	1115	111.50	296.50

HALF	MOLD	DISP	INSTRUM	CANC.	TOT.
700	35	160	505	50.50	245.50
750	35	160	555	55.50	250.50
800	35	160	605	60.50	255.50
850	35	160	655	65.50	260.50
900	35	160	705	70.50	265.50
950	35	160	755	75.50	270.50
1000	35	160	805	80.50	275.50
1050	35	160	855	85.50	280.50
1100	35	160	905	90.50	285.50
1150	35	160	955	95.50	290.50
1200	35	160	1005	100.50	295.50
1250	35	160	1055	105.50	300.50
1300	35	160	1105	110.50	305.50

CAN/RECH		DISP	INSTRUM	CANC.	TOT.
750	35	170	545	54.50	259.50
800	35	170	595	59.50	264.50
850	35	170	645	64.50	269.50
900	35	170	695	69.50	274.50
950	35	170	745	74.50	279.50
1000	35	170	795	79.50	284.50
1050	35	170	845	84.50	289.50
1100	35	170	895	89.50	294.50
1150	35	170	945	94.50	299.50
1200	35	170	995	99.50	304.50
1250	35	170	1045	104.50	309.50
1300	35	170	1095	109.50	314.50
1350	35	170	1145	114.50	319.50
1400	35	170	1195	119.50	324.50
1450	35	170	1245	124.50	329.50
1500	35	170	1295	129.50	334.50

CIC	MOLD	DISP	INSTRUM	CANC.	TOT.
1400	35	180	1185	118.50	333.50
1450	35	180	1235	123.50	338.50
1500	35	180	1285	128.50	343.50
1550	35	180	1335	133.50	348.50
1600	35	180	1385	138.50	353.50
1650	35	180	1435	143.50	358.50
1700	35	180	1485	148.50	363.50
1750	35	180	1535	150.00	365.00
1800	35	180	1585	150.00	365.00
1850	35	180	1635	150.00	365.00
1900	35	180	1685	150.00	365.00
1950	35	180	1735	150.00	365.00
2000	35	180	1785	150.00	365.00
2050	35	180	1835	150.00	365.00
2100	35	180	1885	150.00	365.00
2150	35	180	1935	150.00	365.00
2200	35	180	1985	150.00	365.00

PROGRAM		DISP	INSTRUM	CANC.	TOT.
2000	35	325	1640	150	510
2050	35	325	1690	150	510
2100	35	325	1740	150	510
2150	35	325	1790	150	510
2200	35	325	1840	150	510
2250	35	325	1890	150	510
2300	35	325	1940	150	510
2350	35	325	1990	150	510
2400	35	325	2040	150	510
2450	35	325	2090	150	510
2500	35	325	2140	150	510
2550	35	325	2190	150	510
2600	35	325	2240	150	510
2650	35	325	2290	150	510
2700	35	325	2340	150	510
2750	35	325	2390	150	510
2800	35	325	2440	150	510
2850	35	325	2490	150	510
2900	35	325	2540	150	510
2950	35	325	2590	150	510
3000	35	325	2640	150	510

MARK E. JONES INTERROGATORY NOS. 13, 15 & 17

FULL	MOLD	DISP	INSTRUM	CANC.	TOT.
600	35	150	415	41.50	226.50
650	35	150	465	46.50	231.50
700	35	150	515	51.50	236.50
750	35	150	565	56.50	241.50
800	35	150	615	61.50	246.50
850	35	150	665	66.50	251.50
900	35	150	715	71.50	256.50
950	35	150	765	76.50	261.50
1000	35	150	815	81.50	266.50
1050	35	150	865	86.50	271.50
1100	35	150	915	91.50	276.50
1150	35	150	965	96.50	281.50
1200	35	150	1015	101.50	286.50
1250	35	150	1065	106.50	291.50
1300	35	150	1115	111.50	296.50

HALF	MOLD	DISP	INSTRUM	CANC.	TOT.
700	35	160	505	50.50	245.50
750	35	160	555	55.50	250.50
800	35	160	605	60.50	255.50
850	35	160	655	65.50	260.50
900	35	160	705	70.50	265.50
950	35	160	755	75.50	270.50
1000	35	160	805	80.50	275.50
1050	35	160	855	85.50	280.50
1100	35	160	905	90.50	285.50
1150	35	160	955	95.50	290.50
1200	35	160	1005	100.50	295.50
1250	35	160	1055	105.50	300.50
1300	35	160	1105	110.50	305.50

CAN/RECH		DISP	INSTRUM	CANC.	TOT.
750	35	170	545	54.50	259.50
800	35	170	595	59.50	264.50
850	35	170	645	64.50	269.50
900	35	170	695	69.50	274.50
950	35	170	745	74.50	279.50
1000	35	170	795	79.50	284.50
1050	35	170	845	84.50	289.50
1100	35	170	895	89.50	294.50
1150	35	170	945	94.50	299.50
1200	35	170	995	99.50	304.50
1250	35	170	1045	104.50	309.50
1300	35	170	1095	109.50	314.50
1350	35	170	1145	114.50	319.50
1400	35	170	1195	119.50	324.50
1450	35	170	1245	124.50	329.50
1500	35	170	1295	129.50	334.50

CIC	MOLD	DISP	INSTRUM	CANC.	TOT.
1400	35	180	1185	118.50	333.50
1450	35	180	1235	123.50	338.50
1500	35	180	1285	128.50	343.50
1550	35	180	1335	133.50	348.50
1600	35	180	1385	138.50	353.50
1650	35	180	1435	143.50	358.50
1700	35	180	1485	148.50	363.50
1750	35	180	1535	150.00	365.00
1800	35	180	1585	150.00	365.00
1850	35	180	1635	150.00	365.00
1900	35	180	1685	150.00	365.00
1950	35	180	1735	150.00	365.00
2000	35	180	1785	150.00	365.00
2050	35	180	1835	150.00	365.00
2100	35	180	1885	150.00	365.00
2150	35	180	1935	150.00	365.00
2200	35	180	1985	150.00	365.00

PROGRAM		DISP	INSTRUM	CANC.	TOT.
2000	35	325	1640	150	510
2050	35	325	1690	150	510
2100	35	325	1740	150	510
2150	35	325	1790	150	510
2200	35	325	1840	150	510
2250	35	325	1890	150	510
2300	35	325	1940	150	510
2350	35	325	1990	150	510
2400	35	325	2040	150	510
2450	35	325	2090	150	510
2500	35	325	2140	150	510
2550	35	325	2190	150	510
2600	35	325	2240	150	510
2650	35	325	2290	150	510
2700	35	325	2340	150	510
2750	35	325	2390	150	510
2800	35	325	2440	150	510
2850	35	325	2490	150	510
2900	35	325	2540	150	510
2950	35	325	2590	150	510
3000	35	325	2640	150	510

JOSEPH G. PANNETTE INTERROGATORY NOS. 13, 15 & 17

FULL	MOLD	DISP	INSTRUM	CANC.	TOT.
600	35	150	415	41.50	226.50
650	35	150	465	46.50	231.50
700	35	150	515	51.50	236.50
750	35	150	565	56.50	241.50
800	35	150	615	61.50	246.50
850	35	150	665	66.50	251.50
900	35	150	715	71.50	256.50
950	35	150	765	76.50	261.50
1000	35	150	815	81.50	266.50
1050	35	150	865	86.50	271.50
1100	35	150	915	91.50	276.50
1150	35	150	965	96.50	281.50
1200	35	150	1015	101.50	286.50
1250	35	150	1065	106.50	291.50
1300	35	150	1115	111.50	296.50

HALF	MOLD	DISP	INSTRUM	CANC.	TOT.
700	35	160	505	50.50	245.50
750	35	160	555	55.50	250.50
800	35	160	605	60.50	255.50
850	35	160	655	65.50	260.50
900	35	160	705	70.50	265.50
950	35	160	755	75.50	270.50
1000	35	160	805	80.50	275.50
1050	35	160	855	85.50	280.50
1100	35	160	905	90.50	285.50
1150	35	160	955	95.50	290.50
1200	35	160	1005	100.50	295.50
1250	35	160	1055	105.50	300.50
1300	35	160	1105	110.50	305.50

CAN/RECH	MOLD	DISP	INSTRUM	CANC.	TOT.
750	35	170	545	54.50	259.50
800	35	170	595	59.50	264.50
850	35	170	645	64.50	269.50
900	35	170	695	69.50	274.50
950	35	170	745	74.50	279.50
1000	35	170	795	79.50	284.50
1050	35	170	845	84.50	289.50
1100	35	170	895	89.50	294.50
1150	35	170	945	94.50	299.50
1200	35	170	995	99.50	304.50
1250	35	170	1045	104.50	309.50
1300	35	170	1095	109.50	314.50
1350	35	170	1145	114.50	319.50
1400	35	170	1195	119.50	324.50
1450	35	170	1245	124.50	329.50
1500	35	170	1295	129.50	334.50

CIC	MOLD	DISP	INSTRUM	CANC.	TOT.
1400	35	180	1185	118.50	333.50
1450	35	180	1235	123.50	338.50
1500	35	180	1285	128.50	343.50
1550	35	180	1335	133.50	348.50
1600	35	180	1385	138.50	353.50
1650	35	180	1435	143.50	358.50
1700	35	180	1485	148.50	363.50
1750	35	180	1535	150.00	365.00
1800	35	180	1585	150.00	365.00
1850	35	180	1635	150.00	365.00
1900	35	180	1685	150.00	365.00
1950	35	180	1735	150.00	365.00
2000	35	180	1785	150.00	365.00
2050	35	180	1835	150.00	365.00
2100	35	180	1885	150.00	365.00
2150	35	180	1935	150.00	365.00
2200	35	180	1985	150.00	365.00

PROGRAM		DISP	INSTRUM	CANC.	TOT.
2000	35	325	1640	150	510
2050	35	325	1690	150	510
2100	35	325	1740	150	510
2150	35	325	1790	150	510
2200	35	325	1840	150	510
2250	35	325	1890	150	510
2300	35	325	1940	150	510
2350	35	325	1990	150	510
2400	35	325	2040	150	510
2450	35	325	2090	150	510
2500	35	325	2140	150	510
2550	35	325	2190	150	510
2600	35	325	2240	150	510
2650	35	325	2290	150	510
2700	35	325	2340	150	510
2750	35	325	2390	150	510
2800	35	325	2440	150	510
2850	35	325	2490	150	510
2900	35	325	2540	150	510
2950	35	325	2590	150	510
3000	35	325	2640	150	510

MARK E. JONES INTERROGATORY NO. 3

EQ CIC	30%	1900	570	27%	1700	459	25%	1600	400	20%	1550	310	15%	1549	232.35	10%	1500	150
	25%	1900	475	22%	1700	374	20%	1600	320	15%	1550	232.5	10%	1549	154.9			
	20%	1900	380	17%	1700	289	15%	1600	240	10%	1550	155						
TSP/ CIC	30%	1800	540	27%	1600	432	25%	1500	375	20%	1450	290	15%	1449	217.35	10%	1400	140
	25%	1800	450	22%	1600	352	20%	1500	300	15%	1450	217.5	10%	1449	144.9			
	20%	1800	360	17%	1600	272	15%	1500	225	10%	1450	145						
BAT AUTO BI	30%	1600	480	27%	1400	378	25%	1300	325	20%	1299	259.8	15%	1250	187.5	10%	1249	124.9
	25%	1600	400	22%	1400	308	20%	1300	260	15%	1299	194.85	10%	1250	125			
	20%	1600	320	17%	1400	238	15%	1300	195	10%	1299	129.9						
EQ CAN/ CD AUTO	30%	1300	390	27%	1100	297	25%	1000	250	20%	950	190	15%	949	142.35	10%	900	90
CD CAN	25%	1300	325	22%	1100	242	20%	1000	200	15%	950	142.5	10%	949	94.9			
BI X/ CD CAN AUT	20%	1300	260	17%	1100	187	15%	1000	150	10%	950	95						
CD RECH	30%	1250	375	27%	1050	283.5	25%	950	237.5	20%	900	180	15%	899	134.85	10%	850	85
	25%	1250	312.5	22%	1050	231	20%	950	190	15%	900	135	10%	899	89.9			
	20%	1250	250	17%	1050	178.5	15%	950	142.5	10%	900	90						
EQ BAT AUTO	30%	1200	360	27%	1000	270	25%	900	225	20%	850	170	15%	849	127.35	10%	800	80
EQ 1/2 AUTO	25%	1200	300	22%	1000	220	20%	900	180	15%	850	127.5	10%	849	84.9			
AUTO/ CANAL	20%	1200	240	17%	1000	170	15%	900	135	10%	850	85						
AUTO CAN/ CDBA																		
EQ 1/2	30%	1150	345	27%	950	256.5	25%	850	212.5	20%	800	160	15%	799	119.85	10%	750	75
RECH	25%	1150	287.5	22%	950	209	20%	850	170	15%	800	120	10%	799	79.9			
	20%	1150	230	17%	950	161.5	15%	850	127.5	10%	800	80						
EQ FULL	30%	1100	330	27%	950	256.5	25%	900	225	20%	850	170	15%	801	120.15	10%	800	80
BAT AUTO	25%	1100	275	22%	950	209	20%	900	180	15%	850	127.5	10%	801	80.1			
SUPER AUTO	20%	1100	220	17%	950	161.5	15%	900	135	10%	850	85						
CD 1/2	30%	1000	300	27%	900	243	25%	850	212.5	20%	800	160	15%	799	119.85	10%	750	75
CD 1/2 AUTO	25%	1000	250	22%	900	198	20%	850	170	15%	800	120	10%	799	79.9			
BODY	20%	1000	200	17%	900	153	15%	850	127.5	10%	800	80						
CD FULL	30%	950	285	27%	850	229.5	25%	800	200	20%	750	150	15%	749	112.35	10%	700	70
K AMP	25%	950	237.5	22%	850	187	20%	800	160	15%	750	112.5	10%	749	74.9			
	20%	950	190	17%	850	144.5	15%	800	120	10%	750	75						
SUP/ 1/2 SHELL	30%	900	270	27%	800	216	25%	750	187.5	20%	749	149.8	15%	700	105	10%	699	69.9
BTE	25%	900	225	22%	800	176	20%	750	150	15%	749	112.35	10%	700	70			
1/2 AUTO	20%	900	180	17%	800	136	15%	750	112.5	10%	749	74.9						
FULL	30%	850	255	27%	800	216	25%	750	187.5	20%	699	139.8	15%	650	97.5	10%	649	64.9
	25%	850	212.5	22%	750	165	20%	700	140	15%	699	104.85	10%	650	65			
	20%	850	170	17%	750	127.5	15%	700	105	10%	699	69.9						

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Thomas W. Creehan, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am an Agent Supervisor employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. My office received documents in response to discovery from defendants in the case of the Commonwealth v. M.E. Jones, *et al.*, No. 01-1059-C.D, Clearfield County.
4. From documents produced by the defendants relative to cancellation fees that were charged in connection with the sales by M.E. Jones Hearing Instruments of hearing aids, the attached summary was prepared setting forth, *inter alia*, the names of the names of the consumers, their ages, the date of their sales and the cancellation fee they were charged in connection with their purchase.
5. The attached summary accurately reflects the information contained in the documents produced by the defendants.

Date: 2/2/04

Thomas W. Creehan
Agent Supervisor

FILED
10:30 No CC
FEB 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

Cancellation Fee in Violation of Statute

Customers over 60 highlighted in shaded background

Overcharged on Disclosure

Name	Age	Date of Sale	Quantity Ordered	Full Hearing Aid Price (Each)	Cancellation Fee Charge (Each)	Cancellation Fee Permitted	Amount Overcharged
Lilly, Katherine J.	85	12-Apr-00	2	$1,900	$190	$150	$40
Dornisch, Paul G.	65	18-Jul-00	2	$2,500	$200	$150	$50
Manco, Santo R.	81	21-Jul-00	2	$2,200	$220	$150	$70
Cunnimgham, Paul	69	2-Aug-00	2	$2,600	$260	$150	$110
Morrison, Eloise	82	23-Sep-00	2	$2,000	$265	$150	$115
Weller, Janet W.	78	25-Sep-00	2	$2,000	$200	$150	$50
Long, Dorothy	79	12-Oct-00	2	$2,000	$200	$150	$50
Walker, Charles C.	80	11-Nov-00	2	$2,000	$200	$150	$50
Missey, Matt	71	13-Nov-00	2	$2,500	$250	$150	$100
Duncan, David J.	79	15-Nov-00	2	$1,800	$180	$150	$30
Ammerman, John	86	17-Nov-00	1	$2,000	$200	$150	$50
Dillman, Charles	80	25-Nov-00	2	$1,800	$200	$150	$50
Sheley, Maynard	56	6-Dec-00	2	$2,400	$240	$150	$90
Turner, Dorothy A.	86	10-Jan-01	2	$2,000	$200	$150	N/A
Behm, Bertha	88	18-Jan-01	2	$2,000	$200	$150	$50
Sunderland, Roy	76	19-Jan-01	2	$2,300	$230	$150	$80
Total Number of Customers	16						
Number of Customers Over 60	15						

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Thomas W. Creehan, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am an Agent Supervisor employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. My office received documents in response to discovery from defendants in the case of the Commonwealth v. M.E. Jones, *et al.*, No. 01-1059-C.D, Clearfield County.
4. From documents produced by the defendants relative to the sales by M.E. Jones Hearing Instruments of Songbird disposable hearing aids, the attached summary was prepared setting forth the names of the consumers who purchased Songbird disposable hearing aids, their ages, the date of their transactions and the fitting and dispensing fees that they paid in connection with their purchase.
5. The attached summary accurately reflects the information contained in the documents produced by the defendants.

Date: 2/2/04

Thomas W. Creehan
Agent Supervisor

FILED
01/10:30 NO CC
FEB 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

Songbird Exhibit

Customers over 60 highlighted in shaded background.

Name	Age	Date of Transaction	F&D Fee Paid	
Jehu, Robert	86	14-Dec-00	$200	
Johnson, Hamlin	75	15-Dec-00	$200	
Noll, Harold	75	30-May-01	$100	
Martin, Inger	71	12-Dec-00	$100	
Smith, Ralph	62	28-Mar-01	$100	
Notestein, Fred	62	17-May-01	$100	
Rex, Louis Charles	47	1-Mar-01	$100	
Timblin, Bertha	84	8-Feb-01	$100	
Polachko, John	75	8-Jan-01	$100	
Bateman, R. M.	76	25-Jun-01	$200	
Kepler, Thelma A.	88	18-May-01	$200	
Gaston, Jack	70	8-Dec-00	$100	
Homan, Ken	47	1-Mar-01	$200	
Weaver, Russel	57	16-Feb-01	$100	
Total Customers	14		$1,900	**Total**
Customers Over 60	11			

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, Thomas W. Creehan, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am an Agent Supervisor employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. My office received documents in response to discovery from defendants in the case of the Commonwealth v. M.E. Jones, *et al.*, No. 01-1059-C.D, Clearfield County.
4. From documents produced by the defendants relative to sales conducted between April 2000 and August 15, 2001, which resulted in a cancellation within three (3) days of purchase, the attached summary was prepared setting forth, *inter alia*, the names of the names of the consumers, their ages, the date of their sales, the fitting and dispensing fees, impression fee and cancellation fee charged for each hearing aid purchased.
5. The attached summary accurately reflects the information contained in the documents produced by the defendants.

Date: 2/2/04

Thomas W. Creehan
Agent Supervisor

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FEB 05 2004
William A. Shaw
Prothonotary/Clerk of Courts

3 Day Cancellations - Overcharge on Cancellation Fee

Customers over 60 highlighted in shaded background.

Name	Age	Date of Sale	Quantity Ordered	Full Hearing Aid Price (Each)	Extra Charges: Fitting and Dispensing Fee (Each)	Extra Charges: Impression Fee (Each)	Full Hearing Aid Price Minus Extra Charges	Cancellation Fee Permitted (Each)	Cancellation Fee Charged (Each)	Amount Overcharged (Each)	Total Amount Overcharged
Gibson, Doris A.	86	2-May-00	2	$1,200	$165.00	$35.00	$1,000.00	$100.00	$120.00	$20.00	$40.00
Miller, Anne E.	95	19-May-00	2	$1,400	$175.00	$35.00	$1,190.00	$119.00	$140.00	$21.00	$42.00
Williams, Judith C.	56	23-May-00	2	$2,100	Information Not Given	Information Not Given	N/A	N/A	N/A	N/A	N/A
Egger, John W.	71	25-May-00	1	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$13.50
Emelhizer, Grace	75	15-Jun-00	2	$950	$100.00	$35.00	$815.00	$81.50	$90.00	$8.50	$17.00
Sandstrom, John	82	23-Jun-00	2	$1,050	$115.00	$35.00	$900.00	$90.00	$100.00	$10.00	$20.00
Rafferty, James	80	10-Jul-00	2	$1,200	$145	$35.00	$1,020.00	$102.00	$120.00	$18.00	$36.00
Irvin, Blair	82	19-Jul-00	2	$2,400	$325.00	$35.00	$2,040.00	$150.00	$240.00	$90.00	$180.00
Boyer, Paul	67	7-Aug-00	2	$1,000	$115.00	$35.00	$850.00	$85.00	$100.00	$15.00	$30.00
Herr, Evelyn	78	7-Aug-00	2	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$27.00
Ripka, Mary	86	8-Aug-00	1	$1,200	$145.00	$35.00	$1,020.00	$102.00	$120.00	$18.00	$18.00
Moser, Catherine R.	77	19-Aug-00	1	$850	$92.50	$35.00	$722.50	$72.25	$85.00	$12.75	$12.75
Dyne, Alice	94	31-Aug-00	2	$950	$107.50	$35.00	$807.50	$80.75	$95.00	$14.25	$28.50
Baker, Wilson M.	86	10-Oct-00	2	$1,050	$122.50	$35.00	$892.50	$89.25	$105.00	$15.75	$31.50
Curry, Lucy	81	16-Oct-00	2	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$27.00
Rearick, Marion	77	3-Nov-00	2	$850	$92.50	$35.00	$722.50	$72.25	$85.00	$12.75	$25.50
Hughey, Carmen	87	9-Nov-00	2	$950	$107.50	$35.00	$807.50	$80.75	$95.00	$14.25	$28.50
Missey, Matt	71	13-Nov-00	2	$2,500	$215.00	$35.00	$2,250.00	$150.00	$250.00	$100.00	$200.00
Dunworth, Freda	83	8-Dec-00	2	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$27.00
Gorman, Norman	83	12-Dec-00	2	$850	$92.50	$35.00	$722.50	$72.25	$85.00	$12.75	$25.50
Gears, Clerence	91	12-Dec-00	2	$1,100	$85.00	$35.00	$980.00	$98.00	$110.00	$12.00	$24.00
Younkin, Alfred	78	20-Dec-00	2	$900	Information Not Given	Information Not Given	N/A	N/A	N/A	N/A	N/A
Hosterman, Betty J.	71	29-Dec-00	2	$1,100	$130.00	$35.00	$935.00	$93.50	$110.00	$16.50	$33.00
Turner, Dorothy A.	86	10-Jan-01	2	$2,000	$265.00	$35.00	$1,700.00	$150.00	$200.00	$50.00	$100.00
Kunkle, Thomas W.	75	15-Jan-01	2	$1,175	$141.25	$35.00	$998.75	$99.88	$117.50	$17.63	$35.25
Sunderland, Roy	76	19-Jan-01	2	$2,300	$310.00	$35.00	$1,955.00	$150.00	$230.00	$80.00	$160.00
Breon, Warren	73	2-Feb-01	2	$1,350	$135.00	$167.50	$1,047.50	$104.75	$135.00	$30.25	$60.50
Bigley, William H.	68	6-Feb-01	2	$950	$107.50	$35.00	$807.50	$80.75	$95.00	$14.25	$28.50
Peno, Fred	81	20-Feb-01	2	$1,200	$145.00	$35.00	$1,020.00	$102.00	$120.00	$18.00	$36.00
Osborne, Dora	81	15-Mar-01	2	$1,300	$160.00	$35.00	$1,105.00	$110.50	$130.00	$19.50	$39.00
Regelman, Jeanne D.	94	20-Apr-01	2	$1,900	$290.00	$35.00	$1,575.00	$150.00	$150.00	$0.00	$0.00
Pentz, Ronald	65	3-May-01	2	$1,200	$145.00	$35.00	$1,020.00	$102.00	$120.00	$18.00	$36.00
Strong, Chester	82	21-May-01	1	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$13.50
Britches, Jay	82	29-May-01	2	$1,200	$145.00	$35.00	$1,020.00	$102.00	$120.00	$18.00	$36.00
Welshans, Etta M.	88	11-Jun-01	2	$850	$92.50	$35.00	$722.50	$72.25	$85.00	$12.75	$25.50
Stickler, Marcella	92	11-Jun-01	2	$900	$100.00	$35.00	$765.00	$76.50	$90.00	$13.50	$27.00
Schrecengost, Robert E.	65	10-Aug-01	2	$1,300	$109.50	$35.00	$1,155.50	$115.55	$170.00	$54.45	$108.90
Peters, Eleanor	79	15-Aug-01	1	$1,200	$160.00	$35.00	$1,005.00	$100.50	$110.50	$10.00	$10.00
Peters, Arthur	87	15-Aug-01	2	$1,200	$160.00	$35.00	$1,005.00	$100.50	$110.50	$10.00	$20.00
Total Number of Customers	39									Total	$1,622.90
Number of Customers Over 60	38										

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. In December 2003 I requested the Pennsylvania Department of Health to provide me with true and correct copies of registration materials, including certificates and applications, for Joseph G. Pannette, Ricky A. Pape, Bennett Hearing Aid Center, Bennett Hearing Aid Company, Bennett Hearing Aid Co., Inc., Mark E. Jones, and Mark E. Jones Hearing Instruments, for the period from 2001 to the present.
4. In response to my request I received a letter dated January 2, 2004, from Christine S. Dutton, Senior Counsel, for the Department of Health enclosing the Certification of Janice A. Staloski, Director of the Division of Home Health, Hearing Aid Program, Pennsylvania Department of Health and attached documents that were maintained by the Department of Health relative to, *inter alia*, Joseph G. Pannette, Mark E. Jones and Mark E. Jones Hearing Instruments.
5. Attached to this Affidavit is the letter of Christine S. Dutton, Senior Counsel, the Certificate of Janice A. Staloski, and the aforementioned documents produced by the Pennsylvania Department of Health.

Date: 2/2/04

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FEB 05 2004
William A. Shaw
Prothonotary/Clerk of Courts
No CC

E. Barry Creany
Senior Deputy Attorney General

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.

2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.

3. On August 15, 2002, I took the depositions of Mark E. Jones and Joseph G. Pannette in discovery in the case of the Commonwealth v. M.E. Jones, *et al.*, No. 01-1059-C.D., Clearfield County.

4. Sargent's Court Reporting Service, Inc. served as the stenographer for the depositions of Mark E. Jones and Joseph G. Pannette.

5. The original transcripts of the depositions of Mark E. Jones and Joseph G. Pannette are attached to this Affidavit along with letters dated November 14, 2002, from Sargent's Court Reporting Service, Inc., to me containing correction pages supplied by Mark E. Jones and Joseph G. Pannette.

6. Also attached to this Affidavit is the letter of August 27, 2002, from Attorney David J. Hopkins to me with an enclosed Disclosure Agreement relating to the sale of hearing aids by M.E. Jones Hearing Instruments to Dorothy A. Turner. Said document had been requested in the course of discovery in the above-referenced case and Mark E. Jones and Joseph G. Pannette were asked to bring the same to their deposition on August 15, 2002. For that reason, Attorney Hopkins provided the Turner Disclosure Agreement to supplement discovery.

Date: 2/2/04

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01 10:30 BD
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William A. Shaw
Prothonotary/Clerk of Courts

E. Barry Creany
Senior Deputy Attorney General

THE SARGENT'S GROUP

Sargent's Court Reporting Service, Inc.

210 Main Street
Johnstown, PA 15901
(814) 536-8908

429 Forbes Ave., Suite 1300
Pittsburgh, PA 15219
(412) 232-3882

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Philadelphia, PA 19102
(215) 564-9727

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Harrisburg, PA 17101
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(814) 459-0551

226 South Maple Ave. #104
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665 Philadelphia Street
Indiana, PA 15701
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Hollidaysburg, PA 16648
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Clearfield, PA 16830
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301 South Allen Street
Suite 105
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Wilkes-Barre, PA 18702
(570) 826-7066

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November 14, 2002

RECEIVED
NOV 18 2002
Office of Attorney General

E. Barry Creany, Esquire
Senior Deputy Attorney General
171 Lowell Avenue, Suite 202
Ebensburg, PA 15931

Case: Fisher vs Jones
Date: 8/15/02
Deposition of: Joseph Pannette

Dear Attorney Creany:

We previously forwarded to you the Original transcript in the above-captioned matter.

We have received a correction page and have enclosed it herein.

Sincerely,

Sargent's Court Reporting Service, Inc.

Enclosure

CC: Attorney

Sargent's Correction Page

Page	Line	Error	Correction	Reason
19	25	FERRARI	FERARRO	Spelling
20	2	FERRARI	FERARRO	Spelling
38	7	ADINA	AUDINA	Spelling
38	7	BALHAM	HAL-HEN	Spelling
41	21	UNDERSTANDING	MISUNDERSTANDING	
63	9	BOOM	BONE	Spelling
64	13	WHERE	WEAR	Spelling
64	22	USUALLY	USING	Spelling
64	24	LEARNING	WEARING	
66	13	EARBONE	EARDRUM	

I have read the transcript of my testimony and certify that it is accurate with the above corrections.

Deponent's Signature: JOSEPH PANNETTE

Date of Deposition: AUGUST 15, 2002

Notary Public Signature

NOTARIAL SEAL
Robina J. Thompson, Notary Public
DuBois, Clearfield County
My Commission Expires April 3, 2004

THE HOPKINS LAW FIRM

900 Beaver Drive • DuBois, PA 15801

David J. Hopkins
Licensed in PA & NJ
Masters in Taxation

Lea Ann Heltzel
Licensed in PA

• Voice: (814) 375 - 0300
• Fax: (814) 375 - 5035
• Email:hopkins@penn.com

RECEIVED
AUG 2 8 2002
Office of Attorney General

August 27, 2002

E. Barry Creany, Esquire
Senior Deputy Attorney General
Commonwealth of Pennsylvania
Office of Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931

Re: Commonwealth v. Mark E. Jones, et al.
No. 01-1059-C.D.

Dear Mr. Creany:

At the deposition of Mr. Pannette and Mr. Jones, an issue arose regarding Dorothy A. Turner's disclosure agreement. Enclosed herewith please find a photocopy of the disclosure agreement. If this document was not provided in discovery then it was omitted by accident.

Should you have any questions, please feel free to contact me.

Very truly yours,

David J. Hopkins
Attorney at Law

DJH/bjt

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Dorothy A. Turner AGE 86

ADDRESS 185 Center St. #511 PHONE (814) 781-1840

CITY St Marys STATE Pa ZIP 15857

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	300.00	CANCELLATION $	300.00
FITTING/DISPENSING $	265.00	FITTING/DISPENSING $	265.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	500.00	TOTAL $	500.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Dorothy A. Turner 1-10-01
CUSTOMER'S SIGNATURE DATE

RW Faulk 1-10-01
REGISTRANT'S SIGNATURE DATE

01-1059-CD

AFFIDAVIT IN SUPPORT PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

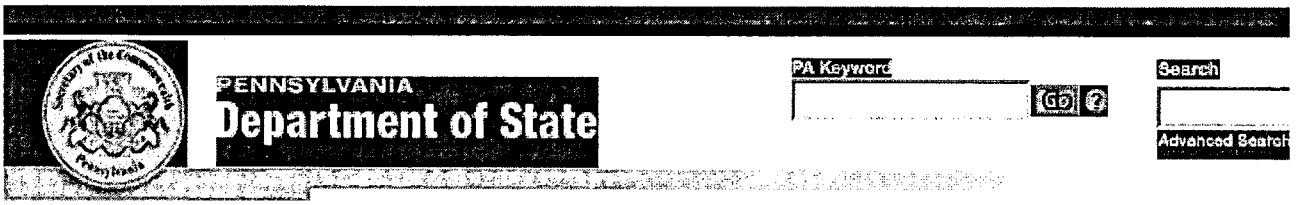
I, E. Barry Creany, make the statements contained in this Affidavit upon personal knowledge and subject to the penalties of 18 Pa. C.S. §4904. The following facts are true and correct:

1. I am an adult individual and competent to testify to the matters stated herein.
2. I am a Senior Deputy Attorney General employed by the Pennsylvania Office of Attorney General, Bureau of Consumer Protection.
3. On January 20, 2004, I went onto the Pennsylvania Department of State web site and conducted a general name search for the name M.E. Jones Hearing Instruments to determine if that name had been registered to any entity for the purpose of doing business under an assumed or fictitious name within the Commonwealth of Pennsylvania.
4. Attached to this Affidavit is a printout of the results of the search I conducted on the Pennsylvania Department of State web site on January 20, 2004, which indicates that there is no record of any entity registered under the name M.E. Jones Hearing Instruments.

Date: 2/2/04

FILED
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FEB 05 2004 No Cc
William A. Shaw
Prothonotary/Clerk of Courts

E. Barry Creany
Senior Deputy Attorney General



DOS Homepage

Please resolve the following and retry

No Matches Found

General Name Search

Request
- New Request

Free Search
- General Name Search
- Old Name Search
- Orphan Search

Entity#

Entity Name M. E. Jones Hearing Instruments

Search

Notice to Our Users

The Department of State is in the process of upgrading the hardware and software that s
Corporation Bureau. The Corporate Records and Uniform Commercial Code searchable w
are both affected. These upgrades will allow the Department to better serve our custome
increasing the efficiency of the services delivered. During this transition, you may notice
temporary anomalies with the Corporate Records and Uniform Commercial Code searcha
databases, including slower than expected responsiveness, inconsistent or incomplete da
unavailability of some services. The Department is aware of these issues and is working
resolve this matter as quickly as possible. Thank you for visiting the Corporation Bureau
appreciate your patience during this transition period, and we look forward to providing r
better services to you in the very near future.

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IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

O R D E R

NOW, this 3rd day of February, 2004, following argument on Plaintiff's Motion for Partial Summary Judgment, it is the ORDER of this Court that all parties shall provide brief to the Court by no later than March 1, 2004. Thereafter, either side will have an additional fifteen (15) days in which to provide a responsive brief.

BY THE COURT,

Judge

FILED

FEB 05 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 2 cc Attys Creany, Donaghue, DuBois, Hopkins, Ryan
01 3:36 BOI
FEB 05 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **STATEMENT REGARDING SUBSTITUTION OF SUCCESSOR PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 2352(a)**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
14TH FLOOR STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS

JEFFREY S. DuBOIS, ESQUIRE
ATTORNEY I.D. NO. 62074
190 W. PARK AVENUE, SUITE #5
DUBOIS, PA 15801
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JOSEPH G. PANNETTE and
MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS, ESQUIRE
THE HOPKINS LAW FIRM
ATTORNEY I.D. NO. 42519
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DUBOIS, PA 15801
(814) 375-0300

ROBERT W. FALLS, RICHARD L. KERSTETTER and RICKY A. PAPE

JOHN R. RYAN, ESQUIRE
BELIN & KUBISTA
ATTORNEY I.D. NO. 38739
15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

FILED

FEB 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

STATEMENT REGARDING SUBSTITUTION OF SUCCESSOR PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 2352(a)

AND NOW, this 20th day of February, 2004, comes the Commonwealth of Pennsylvania, by Attorney General Gerald J. Pappert, through the Bureau of Consumer Protection and files this statement of material facts regarding the substitution of Attorney General Gerald J. Pappert in this action and in support thereof states the following:

1. On December 15, 2003, Gerald J. Pappert became the Acting Attorney General of the Commonwealth of Pennsylvania after being nominated to this position by Governor Edward G. Rendell
2. On January 20, 2004, the Pennsylvania Senate confirmed the nomination of Gerald J. Pappert as the Attorney General of the Commonwealth of Pennsylvania.
3. On January 22, 2004, Attorney General Gerald J. Pappert took the oath of office thereby succeeding prior elected and appointed Attorneys General.
4. The Unfair Trade Practices and Consumer Protection Law authorizes the Attorney General to bring actions in the name of the Commonwealth against any person to restrain by temporary or permanent injunction the use of any methods,

acts or practices declared unlawful by §201-3 of said Act.

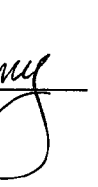
5. The above-captioned action was initiated pursuant to the powers granted the Attorney General by §201-4 of the Consumer Protection Law at a time when Attorney General Pappert's predecessor held office as the Pennsylvania Attorney General.

6. Attorney General Gerald J. Pappert is currently representing the Commonwealth of Pennsylvania in this action and, therefore, by operation of law should be substituted and identified in the caption of this case as the party representing the Commonwealth in this action.

RESPECTFULLY SUBMITTED,

GERALD J. PAPPERT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL



E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

VERIFICATION

I, E. Barry Creany, state that I am a Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection and that I am authorized to make this Verification and that the statements made in the foregoing Statement Regarding Substitution of Successor Pursuant to Pennsylvania Rule of Civil Procedure 2352(a) are true and correct to the best of my knowledge, information and belief. I understand that the statements made therein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Dated: February 20, 2004

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Statement of Substitution being filed on behalf of the Plaintiff was forwarded on the 20th day of February, 2004, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

FILED NO CC
m 9:00 BA
FEB 23 2004
William A. Shaw
Prothonotary/Clerk of Courts
copy to C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **REPLY TO NEW MATTER IN AMENDED ANSWER OF DEFENDANT JOSEPH G. PANETTE, INDIVIDUALLY AND D/B/A J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC.**

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FILED

FEB 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

REPLY TO NEW MATTER IN AMENDED ANSWER OF DEFENDANT JOSEPH G. PANNETTE, INDIVIDUALLY AND D/B/A J.G. PANNETTE MARKETING SPECIALITS, INC., and MARKETING SPECIALISTS, INC.

AND NOW, comes Gerald J. Pappert, Attorney General, on behalf of the Commonwealth of Pennsylvania and files this Reply to the New Matter filed on behalf of Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc., (hereinafter referred to this pleading as the "Defendants") and in support thereof avers the following:

1. No response is required to paragraph 1 of the Defendants' New Matter.

2. The statement contained in paragraph 2 of Defendants' New Matter contains a conclusion of law for which no responsive pleading is required. Inasmuch as an answer is required, Plaintiff denies that the Hearing Aid Sales Registration Law (referred to by Defendants as Hearing Aid Sales and Registration Act) became effective on December 21, 1998, as a part of P.L. 1190, No. 153. To the contrary, the Hearing Aid Sales Registration Law was signed into law on November 24, 1976, pursuant to P.L. 1182, No. 262 and the same became effective immediately pursuant to §802 of said Hearing Aid Sales Registration Law. 35 P.S. §6700-802. Further,

§801 of the Hearing Aid Sales Registration Law provided a two (2) year period for hearing aid fitters to comply with the law which became effective on November 24, 1976. See, 35 P.S. §6700-801(a). Further, §801 of the Hearing Aid Sales Registration Law provided a one (1) year period for hearing aid dealers to comply with the law which became effective on November 24, 1976. See, 35 P.S. §6700-801(b). The application dates provided for in §801 of the Hearing Aid Sales Registration Law apply to "disciplinary action" and, therefore, are not valid affirmative defenses in the immediate civil action. Moreover, the application dates provided for in §801 are not valid affirmative defenses in this matter which involves acts and practices which occurred after November 24, 1978. The Hearing Aid Sales Registration Law amendments added by the Act of December 21, 1998, P.L. 1190, No. 153 which added, *inter alia*, the disclosure agreement and 30-day moneyback written guarantee provisions did not contain any date of application provisions similar to those contained in §801 of the original Hearing Aid Sales Registration Law enacted in 1976. Rather, the 1998 amendments became effective in sixty (60) days which was on or about February 20, 1999.

RESPECTFULLY SUBMITTED,

GERALD J. PAPPERT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copies of the foregoing Reply to New Matter in Amended Answer of Defendant Joseph G.Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. was forwarded on the 20th day of February, 2004, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
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15 North Front Street
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E. Barry Creany
Senior Deputy Attorney General

FILED No cc
FEB 23 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL GERALD J. PAPPERT	:	
V.	:	NO. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ORDER

AND NOW, this 21st day of April, 2004, following Argument on Plaintiff's Motion for Partial Summary Judgment, and consideration of the briefs filed on behalf of the parties, it is the ORDER of this Court that said motion be and is hereby DENIED.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED

APR 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 1 cc Attys Donaghue, Creany, DuBois, Hopkins, Ryan
01 3:30 BH
APR 21 2004 EO

William A. Shaw
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IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
V.	:	NO. 2001-1059-CD
MARK E. JONES, al	:	

ORDER

AND NOW, this 6th day of May, 2004, it is the ORDER of this Court that continuation hearing with regard to Plaintiff's Petition for Contempt is hereby scheduled for Tuesday, July 27, 2004, at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED

MAY 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

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DUBOIS
RYAN
CREANY

FILED

MAY 11 2004

William A. Shaw
Prothonotary/Clerk of Courts

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FILED

JUN 17 2004

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NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS AMENDED PETITION FOR CONTEMPT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO

OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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Office of Attorney General

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF/PETITIONER v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS/RESPONDENTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.

AMENDED PETITION FOR CONTEMPT

AND NOW, this 16th day of June, 2004, upon leave of The Honorable Paul E. Cherry comes the Petitioner, the Commonwealth of Pennsylvania, by Attorney General Gerald J. Pappert, through the Pennsylvania Bureau of Consumer Protection and files this Amended Petition for Contempt against Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, and Marketing Specialists, Inc., pursuant to the §§201-8 and 201-9.1 of the Act of December 17, 1968, P.L. 1224, No. 387, as amended and reenacted by the Act of November 24, 1976, P.L. 1166, No. 260, and the Act of December 3, 1996, P.L. 906, No. 146, 73 P.S. §201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law"), and in support thereof respectfully represents the following:

1. Petitioner is the Commonwealth of Pennsylvania, by Attorney General Gerald J. Pappert, through the Bureau of Consumer Protection (hereinafter "Commonwealth"), Ebensburg Regional Office, 171 Lovell Avenue, Suite 202, Ebensburg, Cambria County, Pennsylvania 15931.

2. Respondent Mark E. Jones (hereinafter "Jones") is an adult individual and resident of the Commonwealth of Pennsylvania who does business as M.E. Jones Hearing Instruments and maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801.

3. Respondent Joseph G. Pannette (hereinafter "Pannette") is an adult individual and resident of the Commonwealth of Pennsylvania who in his capacity as a hearing aid fitter and the business manager of M.E. Jones Hearing Instruments conducts business from 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801. Respondent Pannette is the Chief Executive Officer of Respondent Marketing Specialists, Inc. Pannette participates as Business Manager of M.E. Jones Hearing Instruments either in his individual capacity or in his role as an employee or agent of Marketing Specialists, Inc.

4. Respondent Marketing Specialists, Inc. (hereinafter "MSI") is a Pennsylvania corporation which maintains a principal place of business located at 101 North Main Street, DuBois, Clearfield County, Pennsylvania 15801. MSI provides business services to M.E. Jones Hearing Instruments including, but not limited to, management of accounts resulting from transactions with consumers who purchase hearing aids from M.E. Jones Hearing Instruments.

5. Unless otherwise specified herein, Respondents shall mean Respondent Jones, Respondent Pannette and Respondent MSI. Unless otherwise specified herein, whenever reference is made in this action to any act of the Respondents, such allegations shall be deemed the acts of each Respondent acting individually, jointly or severally.

6. At all times material hereto Respondents Jones and Pannette either personally participated in all of the actions alleged herein, or were in positions of sufficient authority and control over the operations of M.E. Jones Hearing Instruments at the times the actions alleged herein occurred.

7. On July 3, 2001, the Commonwealth filed a Motion for a Preliminary Injunction. On July 20, 2001, the Commonwealth filed a Motion for a Special Injunction asking this Honorable Court to enter a Special Injunction Order restraining and enjoining Respondents Jones, Pannette and MSI from, *inter alia*, failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Law, and for violating the Consumer Protection Law by, *inter alia*, failing to honor a consumer's notice of cancellation. True and correct copies of said Motion for a Preliminary Injunction and Motion for Special Injunction filed with this Court are attached hereto and labeled Group Exhibit "A".

8. On July 20, 2001, this Honorable Court entered an Order granting the Commonwealth's Motion for a Special Injunction. Said Order enjoined the Respondents from in any manner violating the provisions of the Hearing Aid Registration Law and/or the Consumer Protection Law. A true and correct copy of said Order of July 20, 2001, is attached hereto and labeled Exhibit "B".

9. On July 24, 2001, this Honorable Court entered an Order extending the injunction it entered on July 20, 2001. A true and correct copy of said Order is attached hereto and labeled Exhibit "C".

10. Section 504.1 of the Hearing Aid Sales Registration Law provides, *inter alia*, that no hearing aid shall be sold within the Commonwealth unless accompanied by a 30-day money back written guarantee entitling a consumer to the refund of the purchase price of the hearing aid and accessories within 30 days of return of the hearing aid and accessories. 35 P.S. §6700-504.1.

11. Section 503.1 of the Hearing Aid Sales Registration Law provides, *inter alia*, that prior to the provision of any service a registrant shall provide a consumer with a disclosure agreement which shall be explained in detail by the registrant and shall be signed by the registrant and the consumer. 35 P.S. §6700-503.1.

12. The Consumer Protection Law prohibits the use of unfair methods of competition and unfair or deceptive acts and practices in trade and commerce within the

Commonwealth of Pennsylvania and §7 thereof permits consumers to cancel transactions within 3 days and requires sellers who receive notice of a consumer's intent to cancel a transaction to honor the same and refund all payments made under the contract for sale. 73 P.S. §201-7. Consumers are afforded a similar, though somewhat broader, right to cancel transactions within 3 days pursuant to the Federal Trade Commission's Cooling-Off Period Rule. 16 C.F.R. §429.

13. Since July 24, 2001, the Commonwealth's Bureau of Consumer Protection has been receiving complaints from consumers who allege that they have entered into contracts for the purchase of hearing aids from M.E. Jones Hearing Instruments which they subsequently canceled due to their dissatisfaction with the transaction (hereinafter "refund complaints").

14. Several of the recent refund complaints specifically allege that within 30 days of the date of their receipt of hearing aids from M.E. Jones Hearing Instruments they notified the Respondents that they were not satisfied with the hearing aids and they returned the hearing aids to the Respondents, however, they did not receive the refund due them from the Respondents within 30 days of the date of return of the hearing aids. Examples of these return complaints include, but are not limited to, the following consumer transactions:

    A. On September 25, 2003, Mr. H. C. Woodring of Bellefonte, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on April 15, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $2,000.00 down payment. Mr. Woodring took delivery of the hearing aids on April 22, 2003, and paid the balance due of $2,000.00. The Respondents did not provide Mr. Woodring with a disclosure agreement until after the provision of certain services. Mr. Woodring was not satisfied with the hearing aids and notified M.E. Jones Hearing Instruments of the same on May 13, 2003. After repeated attempts by M.E. Jones Hearing Instruments' salespersons to

encourage Mr. Woodring to keep the hearing aids, Ricky Pape picked up the hearing aids on July 22, 2003. After filing a complaint with the Bureau of Consumer Protection against M.E. Jones Hearing Instruments, Mr. Woodring received a partial refund of the amount he paid M.E. Jones Hearing Instruments. A true and correct copy of the Woodring complaint is attached hereto and labeled Exhibit "D".

B. On September 18, 2003, William J. McAninch of Brookville, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on June 19, 2002, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $500.00 down payment. Mr. McAninch took delivery of the hearing aids on June 24, 2002, and paid the balance due of $1,900.00. The Respondents did not provide Mr. McAninch with a disclosure agreement until after the provision of certain services. Mr. McAninch was not satisfied with his hearing aids and they were returned to M.E. Jones Hearing Instruments. When M.E. Jones Hearing Instruments did not provide Mr. McAninch with a refund within 30 days of the date of his return of the hearing aids, he had to hire an attorney and filed an action with a District Magistrate. Mr. McAninch prevailed in his District Magistrate case, however, he did not receive a refund from M.E. Jones Hearing Instruments until July of 2003. A true and correct copy of the McAninch complaint is attached hereto and labeled Exhibit "E".

C. On September 18, 2003, John A. Rokosky of DuBois, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on July 15, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $2,000.00 down payment. The Respondents did not provide Mr. Rokosky with a disclosure agreement until after the provision of certain services. Mr. Rokosky took delivery of the hearing aids on July 24, 2003, and paid the balance due of $2,000.00. Mr.

Rokosky was not satisfied with the hearing aids and returned them on July 29, 2003, to M.E. Jones Hearing Instruments requesting a refund. After filing a complaint with the Bureau of Consumer Protection against M.E. Jones Hearing Instruments, Mr. Rokosky received a refund of the amount he paid M.E. Jones Hearing Instruments. A true and correct copy of the Rokosky complaint is attached hereto and labeled Exhibit "F".

D. On January 7, 2004, Garvin A. Dille of Smethport, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on August 19, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $1,500.00 payment. The Respondents did not provide Mr. Dille with a disclosure agreement until after the provision of certain services. The hearing aids were delivered to Mr. Dille's home on August 29, 2003, at which time Mr. Dille paid a balance due of $1,500.00. Mr. Dille experienced numerous problems with the fit and performance of the hearing aids and repeatedly complained to M.E. Jones Hearing Instruments. M.E. Jones Hearing Instruments extended Mr. Dille's trial period up to November 21, 2003. Within the extended trial period Mr. Dille placed a telephone call to M.E. Jones Hearing Instruments and indicated his dissatisfaction with the hearing aid transaction and requested a refund. On November 6, 2003, in accordance with their course of dealing with their customers, Respondents sent their agent Rick Pape to Mr. Dille's home and at that time Mr. Pape picked up the 2 hearing aids that had been sold to Mr. Dille. When Mr. Dille had not received a refund by December 6, 2003, he made numerous calls to the Respondents and on several occasions spoke with Respondent Pannette who promised that he would send Mr. Dille a refund. Despite Mr. Dille's attempts to obtain a refund, and the promises Respondents made that the same would be paid, Mr. Dille had not received a

refund from the Respondents as of May 6, 2004. A true and correct copy of the Dille complaint is attached hereto and labeled Exhibit "G".

E. On January 12, 2004, Mr. Charles E. Barron of Somerset, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on December 4, 2003, he attended an appointment with fitters representing M.E. Jones Hearing Instruments at the Holiday Inn in Somerset, Pennsylvania. Mr. Barron was quoted a net price of $4,000.00 for hearing aids on December 4, 2003, but decided not to enter into an agreement for the purchase of said hearing aids. On Friday, December 5, 2003, representatives of M.E. Jones Hearing Instruments called Mr. Barron at his home and indicated that it was their last day at the Holiday Inn and they would reduce the net price for 2 hearing aids to $3,000.00. In response to that call, Mr. Barron entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a down payment of $1,500.00 on December 5, 2003. The Respondents did not provide Mr. Barron with a disclosure agreement until after the provision of certain services. Mr. Barron took delivery of the 2 hearing aids and paid the balance due of $1,500.00 on December 17, 2003. Mr. Barron experienced numerous problems with the fit and performance of the hearing aids and repeatedly complained to M.E. Jones Hearing Instruments. After M.E. Jones Hearing Instruments attempted to adjust the hearing aids and failed, Mr. Barron indicated his dissatisfaction with the hearing aid transaction and requested a refund within the initial 30 day trial period. On January 5, 2004, in accordance with their course of dealing with their customers, Respondents sent their agent Robert W. Fauls to Mr. Barron's home and at that time Mr. Fauls picked up the 2 hearing aids that had been sold to Mr. Barron. At that time Mr. Fauls promised Mr. Barron that he would receive his refund within 30 days. Despite Mr. Barron's attempts to obtain a refund, and the promises Respondents made that the

same would be paid, Mr. Barron had not received a refund from the Respondents as of May 6, 2004. A true and correct copy of the Barron complaint is attached hereto and labeled Exhibit "H".

15. The Commonwealth has received recent complaints from consumers which specifically allege they entered into contracts with M.E. Jones Hearing Instruments for the purchase of hearing aids which were the result of, or in connection with, contacts with or calls on the consumers at their residences either in person or by telephone, and said consumers later gave the Respondents notice that they wished to exercise their right to cancel said contracts. The consumers further allege that they did not receive refunds due them from the Respondents within 10 days of having given notice of their intent to cancel the transaction (hereinafter "cancellation complaints"). Examples of these cancellation complaints include, but are not limited to, the following consumer transactions:

A. On April 28, 2003, Muriel A. Frost filed a complaint with the Bureau of Consumer Protection alleging that she entered into a contract with M.E. Jones Hearing Instruments for the purchase of hearing aids on April 16, 2003, and in connection with said transaction made a down payment of $1,500.00. The Respondents did not provide Mrs. Frost with a disclosure agreement until after the provision of certain services. Mrs. Frost never received a formal notice of cancellation form from the Respondents. On April 17, 2003, Mrs. Frost contacted M.E. Jones Hearing Instruments and notified the company of her intent to cancel her contract. By certified letter sent and dated April 18, 2003, Mrs. Frost gave M.E. Jones Hearing Instruments written notice of her intent to cancel the transaction, however, within 10 days of receipt of such notice the Respondents did not take the action necessary to provide Mrs. Frost with a refund or credit of her down payment. A true and correct copy of the Frost complaint is attached hereto and labeled Exhibit "I".

B. On January 12, 2004, Janet O. Kister filed a complaint with the Bureau of Consumer Protection alleging that on December 3, 2003, she received 2 telephone calls from the Respondents soliciting her to schedule an appointment for a hearing test at the Holiday Inn, Somerset, Pennsylvania. As a result of said telephone calls, Mrs. Kister attended an appointment on December 4, 2003, and entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and in connection with said transaction made a down payment of $500.00. The Respondents did not provide Mrs. Ksiter with a disclosure agreement until after the provision of certain services. Mrs. Kister never received a formal notice of cancellation form from the Respondents. On December 5, 2003, Mrs. Kister contacted the Respondents' agent at the Holiday Inn, Somerset, Pennsylvania, and notified said agent that she wished to cancel the hearing aid sales transaction. Respondents' agent acknowledged Mrs. Kister's cancellation request and promised to return her $500.00 down payment check by mail. Despite said promise, Respondents deposited Mrs. Kister's down payment check. After filing a complaint with the Bureau of Consumer Protection against M.E. Jones Hearing Instruments, Mrs. Kister received a refund of the amount she paid M.E. Jones Hearing Instruments. A true and correct copy of the Kister complaint is attached hereto and labeled Exhibit "J".

C. On August 19, 2003, William G. Ritter filed a complaint with the Bureau of Consumer Protection alleging that he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids at his home on April 14, 2003, and in connection with said transaction made a down payment of $1,500.00. The Respondents did not provide Mr. Ritter with a disclosure agreement until after the provision of certain services. Mr. Ritter never received a formal notice of cancellation form from the Respondents. Within 3 days of the sale Mr. Ritter notified Respondents that he wanted to cancel

the transaction. On April 23, 2003, Respondents contacted Mr. Ritter to attempt to deliver the hearing aids and at that time Mr. Ritter reconfirmed his intention to cancel the hearing aid transaction. After filing a complaint with the Bureau of Consumer Protection against M.E. Jones Hearing Instruments, Mr. Ritter received a partial refund of the amount he paid M.E. Jones Hearing Instruments. A true and correct copy of the Ritter complaint is attached hereto and labeled Exhibit "K".

D. On January 12, 2004, Mr. Charles E. Barron of Somerset, Pennsylvania, filed a complaint with the Bureau of Consumer Protection alleging that on December 4, 2003, he attended an appointment with fitters representing M.E. Jones Hearing Instruments at the Holiday Inn in Somerset, Pennsylvania. Mr. Barron was quoted a net price of $4,000.00 for hearing aids on December 4, 2003, but decided not to enter into an agreement for the purchase of said hearing aids. On Friday, December 5, 2003, representatives of M.E. Jones Hearing Instruments called Mr. Barron at his home and indicated that it was their last day at the Holiday Inn and they would reduce the net price for 2 hearing aids to $3,000.00. In response to that call, Mr. Barron entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a down payment of $1,500.00 on December 5, 2003. The Respondents did not provide Mr. Barron with a disclosure agreement until after the provision of certain services. Mr. Barron never received a formal notice of cancellation form from the Respondents. Mr. Barron took delivery of the 2 hearing aids and paid the balance due of $1,500.00 on December 17, 2003. Mr. Barron experienced numerous problems with the fit and performance of the hearing aids and repeatedly complained to M.E. Jones Hearing Instruments. After M.E. Jones Hearing Instruments attempted to adjust the hearing aids and failed, Mr. Barron indicated his dissatisfaction with the hearing aid transaction and requested a refund within the initial 30

day trial period. On January 5, 2004, in accordance with their course of dealing with their customers, Respondents sent their agent Robert W. Fauls to Mr. Barron's home and at that time Mr. Fauls picked up the 2 hearing aids that had been sold to Mr. Barron. At that time Mr. Fauls promised Mr. Barron that he would receive his refund within 30 days. Despite Mr. Barron's attempts to obtain a refund, and the promises Respondents made that the same would be paid, Mr. Barron had not received a refund from the Respondents as of May 6, 2004. A true and correct copy of the Barron complaint is attached hereto and labeled Exhibit "H".

16. Since July 24, 2001, numerous consumers have filed either refund complaints or cancellation complaints with the Commonwealth's Bureau of Consumer Protection and consumers continue to file such complaints. Complaints of these types are identified on the list that has been attached hereto and labeled Exhibit "L" setting forth the names and file numbers of the consumers who have filed such complaints with the Bureau of Consumer Protection as of June 8, 2004.

17. Substantially all of those consumers who complained to the Bureau of Consumer Protection have indicated that the Respondents provided some services including, but not limited to, hearing testing, fitting and the making of ear canal impressions, prior to the consumer's receipt of a disclosure agreement.

18. Many of those consumers identified on Exhibit "L" still have not received refunds due them from the Respondents.

19. The Commonwealth has provided the Respondents with copies of all of the complaints filed by those consumers identified in Exhibit "L".

20. Respondents, through their counsel, have been notified by the Commonwealth that the complaints referenced in Exhibit "L" evidence a pattern and practice of conducting business in violation of the Hearing Aid Sales Registration Law and/or the Consumer Protection Law and in direct violation of this Court's Orders. A true

and correct copy of one such notice sent to the Respondents' counsel is attached hereto and labeled Exhibit "M".

21. Despite having been afforded notice of the consumer complaints referenced in Exhibit "L", Respondents have failed to respond to each of these complaints.

22. On December 15, 2003, I. Stanley Claycomb filed a complaint with the Bureau of Consumer Protection alleging that on September 18, 2003, he entered into a contract with M.E. Jones Hearing Instruments for the purchase of 2 hearing aids and made a $2,100.00 down payment. Approximately one week later, Mr. Claycomb took delivery of the hearing aids and paid the balance due of $2,100.00. Following his receipt of the hearing aids, Mr. Claycomb gave the Respondents notice that he was not satisfied with the fit and performance of said hearing aids and has since requested a refund. A true and correct copy of the Claycomb complaint is attached hereto and labeled Exhibit "N".

23. Mr. Claycomb had not had his hearing examined by an otologist or otolaryngologist or a licensed physician within the 6 month period immediately preceding September 18, 2003, and had not otherwise received a recommendation from such a physician that the use of hearing aids may be beneficial to him. Further, Mr. Claycomb did not sign a medical waiver prior to entering into the hearing aid sales transaction with the Respondents.

24. The Commonwealth believes and therefore avers that the Respondents have violated this Court's Orders of July 20, 2001, and July 24, 2001, by violating §403, §503.1 and §504.1 of the Hearing Aid Sales Registration Law and by violating the Consumer Protection Law by , *inter alia*, failing to comply with the provisions of §201-7 and failing to comply with the Federal Trade Commission's Cooling-Off Period Rule.

WHEREFORE, the Commonwealth respectfully prays that, after a hearing on this Amended Petition for Contempt, this Honorable Court enter an Order finding Respondents Mark E. Jones, individually and doing business as M.E. Jones Hearing Instruments and Joseph G.

Pannette and Marketing Specialists, Inc., to be held in contempt of this Court's Orders of July 20, 2001, and July 24, 2001, and direct that said Respondents undergo incarceration until such times as they purge themselves of contempt by:

A. Paying the full and complete amount of restitution due consumers pursuant to §201-4.1 of the Consumer Protection Law;

B. Directing the Respondents to pay the Commonwealth civil penalties of Five Thousand and 00/100 Dollars ($5,000.00) for every act in violation of this Court's injunction pursuant to §201-8 of the Consumer Protection Law;

C. Enjoining the Respondents from engaging in trade and commerce within the Commonwealth of Pennsylvania as hearing aid fitters or hearing aid dealers pursuant to §201-9 of the Consumer Protection Law; and,

D. Granting any other statutory or equitable relief as this Court may deem necessary and appropriate including, but not limited to, the appointment of a receiver pursuant to §201-9.1 of the Consumer Protection Law.

DATE: June 15, 2004,

Respectfully submitted,

GERALD J. PAPPERT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

COUNTY OF CAMBRIA)
)
) SS:
COMMONWEALTH OF PENNSYLVANIA)
)

AFFIDAVIT

I, Thomas W. Creehan, being duly sworn according to law, hereby state that I am a Consumer Protection Agent for the Office of Attorney General, Bureau of Consumer Protection, Commonwealth of Pennsylvania and that I am authorized to make this Affidavit and that the facts set forth in the foregoing Amended Petition for Contempt are true and correct to the best of my knowledge, information and belief.

Dated: June 15, 2004

Thomas W. Creehan
Consumer Protection Agent

This Affidavit is made subject to the penalties of 18 Pa.C.S. 4904 relating to Unsworn Falsification to Authorities.

GROUP EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D. : MOTION FOR A PRELIMINARY INJUNCTION

COUNSEL FOR PLAINTIFF

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 03 2001

Attest. William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. DEFENDANTS	: CIVIL DIVISION - EQUITY : NO. 01- -C.D. : MOTION FOR A PRELIMINARY INJUNCTION

MOTION FOR PRELIMINARY INJUNCTION

AND NOW, this 3rd day of July, 2001, comes the Commonwealth of Pennsylvania acting by D. Michael Fisher, Attorney General, through the Pennsylvania Bureau of Consumer Protection, and respectfully files this Motion for a Preliminary Injunction pursuant to §201-4 of the Unfair Trade Practices and Consumer Protection Law ("Consumer Protection Law"), 73 P.S. §201-4 and Pa.R.C.P. No. 1531, and in support thereof represents the following:

1. Plaintiff is the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Bureau of Consumer Protection ("Commonwealth") and filed a Complaint in Equity and Petition for a Permanent Injunction on the 3rd day of July, 2001.

2. Defendants are Mark E. Jones, individually, and Mark E. Jones doing business as M.E. Jones Hearing Instruments and Joseph G. Pannette, individually, and Joseph G. Pannette doing business as J.G. Pannette Marketing Specialists, Inc., who have engaged in trade and commerce in the Commonwealth of Pennsylvania.

3. Defendants have engaged in the advertisement for sale and sale of hearing aids to consumers who are residents of the Commonwealth of Pennsylvania.

4. As more fully set forth in the complaint filed herein, in furtherance of their plan and

practice of advertising and selling hearing aids, the defendants:

A. Charge consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Charge consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition to the cancellation fee that is charged (hereinafter "Cancellation Fee Packing");

C. Extend the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Fail to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresent cancellation rights, or otherwise attempt to dissuade consumers from exercising the same;

E. Use a form in connection with their sale of the Songbird disposable hearing aid (hereinafter the "Songbird Disclosure form") which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7; and,

F. Use receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law (hereinafter "Hearing Aid Law").

5. Defendants continue to sell hearing aids to consumers using the methods, acts and practices set forth in paragraph 4 above.

6. Defendants' hearing aid sales practices cause confusion and misunderstanding among consumers as to the Commonwealth's certification or approval of the defendants' practices.

7. Defendants misrepresent and engage in deceptive conduct that causes confusion and

misunderstanding as to the consumer's right to cancel hearing aid sales transactions and receive refunds.

8. Defendants' conduct constitutes a violation of the Hearing Aid Law.

9. Defendants' conduct constitutes a violation of the Consumer Protection Law.

10. The Commonwealth's right to relief is clear and the Commonwealth is likely to succeed on the merits of the claim in its complaint in equity.

11. Defendants' violation of the Consumer Protection Law and the Hearing Aid Law constitute irreparable harm.

12. The Commonwealth and the public will continue to suffer irreparable harm if defendants are allowed to continue using the aforementioned methods, acts and practices in advertising and selling hearing aids.

13. The Commonwealth has no adequate remedy at law.

14. This Court has authority under Pa.R.C.P. No. 1531 and §201-4 of the Consumer Protection Law to issue a preliminary injunction if it finds that immediate and irreparable injury will be sustained. 73 P.S. §201-4.

15. Defendants' past and ongoing violations of the Consumer Protection Law constitute immediate and irreparable injury.

WHEREFORE, the Commonwealth prays this Honorable Court to issue a Preliminary Injunction Order:

A. Preliminarily restraining the defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers, who within 30 days of purchase of the hearing aids requested refunds, a cancellation fee in excess of $150.00 or 10% of the purchase price of the hearing aids;

B. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from charging consumers portions of the "Full Hearing Aid Price" as nonrefundable fees in addition

to the cancellation fee that is charged;

C. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from extending the period of time within which consumers, who within 30 days of purchase of the hearing aids requested refunds, will receive the refund of money due them;

D. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from failing to honor notices of cancellation from consumers who request cancellation within 3 days of their purchase of hearing aids, misrepresenting cancellation rights, or otherwise attempting to dissuade consumers from exercising the same;

E. Preliminarily restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using any form in connection with their sale of the Songbird disposable hearing aid, or any other hearing aid, which misrepresents the consumers' rights to cancel their purchase of a hearing aid without any penalty or obligation and otherwise fails to comply with the requirements of §201-7;

F. Preliminary restraining defendants and any of their agents, servants, employees or any other persons in active concert or participation with the defendants from using receipts in connection with their sale of hearing aids which do not contain all of the information and disclosures required by §504 of the Hearing Aid Sales Registration Law;

G. Scheduling a hearing in order to address this motion for a preliminary injunction; and,

H. Granting any other such further relief as this Court may deem necessary and appropriate to effectuate the purposes of the Consumer Protection Law.

DATE: July 3, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	: CIVIL DIVISION - EQUITY : NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	
DEFENDANTS	

MOTION FOR SPECIAL INJUNCTION

AND NOW, this 20th day of July, 2001, comes the Commonwealth of Pennsylvania acting by Attorney General D. Michael Fisher, through the Pennsylvania Bureau of Consumer Protection and respectfully moves this Court for a special injunction and preliminary injunction pursuant to Rule 1531 of the Pennsylvania Rules of Civil Procedure and alleges in support thereof the following:

1. On July 3, 2001, plaintiff filed a verified Complaint and Petition for a Permanent Injunction and a Motion for a Preliminary Injunction with this Court which are docketed to the above captioned action number.

2. On July 3, 2001, The Honorable John K. Reilly, Jr. entered an Order scheduling a hearing on the Commonwealth's Motion for a Preliminary Injunction for the 16th day of July, 2001, at 3:00 P.M.

3. Without providing notice to the Commonwealth or obtaining plaintiff's consent, defendants' attorney, David J. Hopkins, contacted the Clearfield County Court Administrator's Office and obtained an ex parte continuance of the preliminary injunction hearing that was scheduled for July 16th. This contact took place on or about July 13, 2001.

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 20 2001

Attest:

4. The defendants' counsel did not give counsel for the Commonwealth notice of his entry of appearance until 8:36 p.m. on July 13, 2001. (A representative copy of notice of Attorney Hopkins' Entry of Appearance is attached hereto and labeled Exhibit "A".)

5. Sometime after 4:00 p.m. on July 13th a secretary from Attorney David J. Hopkins' office left a message with the Attorney General's Office that the hearing scheduled for July 16th had been continued. Counsel for the Commonwealth was not available at the time said message was left and did not receive the same until early Monday, July 16th.

6. On the mornings of July 16th, 17th and 18th counsel for the Commonwealth called Attorney Hopkins' office and left messages for Attorney Hopkins to contact the Attorney General's Office to discuss concerns regarding the continuance and the defendants' continued sale of hearing aid instruments in violation of the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

7. On July 18th when the Commonwealth's calls were not returned a letter was faxed to Attorney Hopkins outlining the Commonwealth's concerns with defendants' continued business practices and gave notice to Attorney Hopkins that if he failed to contact the Commonwealth to address concerns about the defendants' continued business practices the Commonwealth would present a Motion for a Special Injunction on Friday, July 20, 2001. (A representative copy of the Commonwealth's letter to Attorney Hopkins along with the fax confirmation sheet is attached hereto and labeled Exhibit "B".

8. The Commonwealth is informed, believes and therefore avers since July 3, 2001, defendants directly and through their agents have continued to engage in hearing aid sales in the manner which violates the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

9. The defendants' wrongful conduct is actionable.

10. Defendants will not suffer appreciable injury if a special injunction is granted

because the status quo will be maintained.

11. Plaintiff's rights are clear and plaintiff is likely to succeed on the merits of this claim.

12. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff prays this Honorable Court to enter a Special Injunction Order restraining and enjoining defendants from:

A. Failing to comply with the 30-day refund provisions of §504.1 of the Hearing Aid Sales Registration Act.

B. Charging consumers cancellation fees in excess of the amount permitted by §504.1 of the Hearing Aid Sales Registration Act.

C. Engaging in unfair or deceptive acts or practices in connection with the sale of hearing aids by allocating portions of the "full hearing aid price" as nonrefundable fees in excess of the cancellation fees permitted by §501.4 of the Hearing Aid Sales Registration Act.

D. Failing to honor a consumer's notice of cancellation as provided for in §201-7 of the Consumer Protection Law.

E. Using contracts in the sale of goods or services which violate §201-7 of the Consumer Protection Law by misrepresenting a consumer's right to cancel a transaction with 3 days without any penalty or obligation.

F. Using receipts in connection with the sale of hearing aids which do not comply with §504 of the Hearing Aid Sales Registration Act.

G. Scheduling hearing within five (5) days of granting any special injunction which might issue in response to this motion.

H. Granting any other such relief as this Court may deem necessary and appropriate.

DATE: July 20, 2001

RESPECTFULLY SUBMITTED,

D. MICHAEL FISHER
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., Defendant	:	

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter my appearance for the Defendants, Mark E. Jones, individually and d/b/a M. E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc., in the above captioned matter.

Date: July 11, 2001

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

Exhibit "A"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

VIA: FACSIMILE AND REGULAR MAIL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

July 18, 2001

David J. Hopkins, Esquire
THE HOPKINS LAW FIRM
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Mr. Hopkins:

Each morning for the past three days I have contacted your office to indicate an immediate need to discuss with you the ex parte continuance that was granted on the Commonwealth's Motion for a Preliminary Injunction in the above-captioned case.

While I am deeply concerned by the fact that the continuance was granted ex parte, I am more disturbed by the fact that it appears your clients continue to sell hearing aid goods and services to consumers, mostly elderly, without complying with the laws governing such sales.

With respect to the continuance, we did not even receive word of your entry of appearance until receiving a fax from your office on July 13th at 8:46 p.m. Sometime around 4:00 on the 13th a message was left on my voice mail indicating the hearing scheduled for 3:00 p.m. on July 16th had been continued. At no time prior to that date did you contact me to indicate you were entering an appearance for the defendants and wished to have a continuance. In fact I had heard nothing from you since we met in State College to discuss this matter on June 26, 2001. Had you contacted me, I most likely would have agreed to the continuance. As a result of your lack of communication on this matter our Office incurred time and expense in preparing witnesses for the hearing and serving a subpoena on one of the defendants' employees. I am familiar with the Pennsylvania Rules of Civil Procedure and the Clearfield County Local Court Rules published in

Exhibit "B"

The Pennsylvania Bulletin and I do not believe that the granting of continuance without contacting opposing counsel complies with either the Pennsylvania or Clearfield rules on this matter.

In the course of serving pleadings and subpoenas in this matter, my agents were advised at various times that Mr. Jones and Bob Fauls were out of the office on hearing aid sales appointments. As I mentioned that if I had been consulted I would have been willing to consent to a continuance, however, I would have demanded that your clients cease all hearing aid sales activities which violate the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law as set forth in the complaint which we filed and served upon your clients on July 3rd.

Three days in a row I have contacted your office to discuss the need to have your clients immediately bring their practices into compliance with the Pennsylvania law. At this point I have not had the courtesy of a return phone call.

If I do not hear from you by the close of business today, I will prepare and have filed in Clearfield County Court of Common Pleas on Friday, July 20, 2001, a Motion for a Special Injunction requiring your clients' immediate compliance with the Hearing Aid Sales Registration Act and the Unfair Trade Practices and Consumer Protection Law.

Please give this matter your immediate attention. If I do not hear from you, I will proceed accordingly.

Sincerely,

E. Barry Creamy
Senior Deputy Attorney General

cc: Frank T. Donaghue, Chief Deputy Attorney General

EXHIBIT "B"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA:
ACTING BY ATTORNEY GENERAL D. :
MICHAEL FISHER :
:
-vs- : No. 01 – 1059 – CD
:
MARK E. JONES, individually and d/b/a :
M.E. JONES HEARING INSTRUMENTS :
and JOSEPH G. PANNETTE, individually :
and d/b/a J.G. PANNETTE MARKETING :
SPECIALISTS, INC. :

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 20 2001

Attest: Prothonotary

ORDER

NOW, this 20th day of July, 2001, upon consideration of Motion for Special Injunction filed on behalf of Plaintiffs above-named, it is the ORDER of this Court that said Special Injunction be and is hereby granted to the extent that Defendants are hereby restrained and enjoined from in any manner violating the provisions of the Hearing Aid Sales Registration Act, 35 P.S. 6700-101 and/or the Consumer Protection Law, 73 P.S. 201-1 et seq.

It is the further ORDER of this Court that on or before Monday, July 23, 2001, Defendants shall produce true and correct copies of all documents relating to all hearing aid sales transactions which M.E. Jones Hearing Instruments entered into with any consumers at any time since July 3, 2001, including, but not limited to, all contract forms, notice of cancellation forms, disclosure agreements, and Songbird disclosure and guarantee forms.

It is the further ORDER of this Court that a hearing on the continuation of this special injunction is hereby scheduled for Tuesday, July 24, 2001, at 10:00 a.m. in Courtroom #1 of the Clearfield County Courthouse, Clearfield, Pennsylvania. Counsel for plaintiff shall

provide notice of such hearing to defendants by service of a copy of this Order on Attorney David J. Hopkins, Esquire, and Defendants shall appear at said hearing.

This special Injunction Order shall be binding on all parties, agents, employees and associates of the Defendants' and all those acting in concert with the Defendants or on behalf of Defendants who have actual knowledge of it.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

EXHIBIT "C"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

ORDER

NOW, this 24th day of July, 2001, this being the day and date set for hearing into Plaintiff's Motion for Special Injunction, upon agreement of the parties, it is the ORDER of this Court that the Injunction entered July 20, 2001, shall be and remain in full force and effect until further Order of Court.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

EXHIBIT "D"

F03-4539 TBS

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

MIKE FISHER
ATTORNEY GENERAL

www.attorneygeneral.gov

Bureau of Consumer Protection
Pittsburgh Regional Office
564 Forbes Avenue
Manor Complex, 6th Floor
Pittsburgh, PA 15219
(412) 565-5135

Office Use Only Investigator: [illegible] Code 1 303 Code 2 900
Complaint # C006280-2003 303 815

H. C. Woodring
YOUR NAME

115 N McAllister Street
ADDRESS

Bellefonte PA 16823 Centre
CITY STATE ZIP CODE COUNTY

814 355 3829
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M. E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Rick Pape - Jerry Cannett
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main Street PO Box 686
ADDRESS

DuBois PA 15801
CITY STATE ZIP CODE COUNTY

814-371 6401 OR 1 800 223 3341
PHONE

Your Age:
18-29
30-44
45-59
60 or older

How did you find out about us:
Visited Office
Attended County/ Senior Fair or Speaking Engagement
State Legislator/ Agency
News Story
Internet
Other- Please Specify:

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids Left & Right ear	4/15/03	$4000 -

(This information will be used for Statistical & Enforcement Purposes Only)

To what other agencies have you complained? Better business bureau

What action was taken? Referred to Attorney General Office

Have you retained an attorney? ☐ Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☒ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

SEP 25 2003

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $3,430.00 as per Agreement

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

September 22, 2003

115 North McAllister Street
Bellefonte, PA 16823
(814) 355-3829

Bureau of Consumer Protection
Office of Attorney General
Pittsburgh Regional Office
564 Forbes Avenue
Pittsburgh, PA 15219

Reference: M.E. Jones Hearing Instruments

To Whom it May Concern,

Hearing aids were prescribed on April 15, 2003 with a 30 day trial period. A down payment of $2,000 dollars was made on our Discover Credit Card that day. The remaining balance was to be paid upon delivery.

April 22, 2003 hearing aids delivered by Rick Pape of M.E. Jones Hearing Aid Sales & Service. The remaining balance of $2,000 was paid on the Discover Card listed above.

Having followed the directions given by the company for the proper use of hearing aids, the quality of hearing was not improved. At times, I had to remove the aids to hear better.

May 13, 2003, I called M.E. Jones to have hearing aids returned as per our contract since I was not satisfied. The hearing aids had not helped to improve my hearing. Tom, from M.E. Jones Hearing Aid Sales & Service, came to reprogram the hearing aids in an attempt to perform better.

May 28, 2003, Rick Pape picked up hearing aids to make corrections.

On June 5, 2003, Rick Pape returned hearing aids. Extending trial period *another* thirty days.

June 16,2003, I called office to return hearing aids as per our contract since I was not satisfied. No response from company.

June 23,2003, called office again to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 7,2003, called office again to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 8, 2003, Betty B. Woodring (my wife) called office to return hearing aids as per our contract since I was not satisfied. No action was taken by company.

July 22, 2003, Rick Pape came to pick up and return hearing aids, we asked for a receipt for hearing aids. Also, we inquired about when we would receive our money less the specified charges. Rick stated "30 days."

September 8th, 9th, our money was not refunded and my wife contacted Jerry Cannett, supervisor M.E. Jones Hearing Aid Sales & Service, who said he would talk with the accountants and would call us back. No call back from company

September 11, 2003, my wife called again to speak with Jerry Cannett, he was not available.

Needless to say, we are very frustrated and concerned and would appreciate any help from this office to get our money returned as soon as possible. Thank you for your efforts.

Sincerely,

H.C. Woodring

Enclosures

Cc: M.E. Jones

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

371-6401

DISCLOSURE AGREEMENT

NAME H.C. Woodring AGE 79

ADDRESS 115 N. McAllister St. PHONE (814) 355-3829

CITY Bellefonte STATE PA ZIP 16823

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

Jo Ellen W. talked 7/18/03 said it was noted when called in file so no problem.

2.00
285
1715

RIGHT INSTRUMENT	LEFT INSTRUMENT
CANCELLATION $ 100.00	CANCELLATION $ 100.00
FITTING/DISPENSING $ 150.00	FITTING/DISPENSING $ 150.00
IMPRESSION FEE $ 35.00	IMPRESSION FEE $ 35.00
TOTAL $ 285.00	TOTAL $ 285.00

Trudy - 7/18/03 - will call, let us know what is happening

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X H.C. Woodring — 4-15-03
CUSTOMER'S SIGNATURE — DATE

W.L. Pontius — 4-15-03
REGISTRANT'S SIGNATURE — DATE

M.E. JONES HEARING INSTRUMENTS

Daisy 5/22/03 9:12 AM

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 4-15-03

Name: H. C. Working Age:

Address: 115 N. McAlister St Phone: (814) 355-3629

City: State: PA

Zip Code: 16823 County: Centre New x Used Reconditioned

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
Widex	CIC	RT,			
	Prog	LF.			

Full Hearing Aid Price ..... Special Promo 1000.00

Includes Impression Fee Free Fitting & Dispensing Fee 200.00

..... Widex Manuf Disc 200.00

Subtotal 1000.00

Down Payment ..... Call card 7009 0339 0000 05 ..... 200.00

Balance Due ..... C.O.D. Delivery 200.00

Called 5/20/03 @ 9:00 A.M.
Betty called 5/16/03 in P.M.

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

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THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 15th Day of April year 2003 Purchaser: x H. C. Working
In presence of:
Countersigned: M.L. Phillips Co-purchaser:
Consultant and Registration Number: M.L. Phillips 80124

M.E. JONES Hearing Instruments

M.E. Jones Hearing Instruments
101 North Main • DuBois, PA 15801
(814) 371-6401 • 1 (800) 223-3341

H.C. Woodring
115 McAlister St.
Bellefonte, PA

6-5-03

This is to extend Mr. Woodring's trial period thirty days from today.

7-22-03 Returned Both AIDS — Rick Pape

RICK PAPE
HEARING AID SALES AND SERVICE
M.E. JONES HEARING INSTRUMENTS
101 NORTH MAIN STREET
DuBOIS PA 15801
814-371-6401 1-800-223-3341

9/8/03 — 10:06 AM
Becky — Jerry Cannett (typ doggie) — will call by this afternoon or tomorrow morning

9/9/03 — 10:41 AM
Jo Ellen

9/11/03 — 1:07
Jo Ellen — left # for Jerry To call ! she will have

9/11/03 Jo Ellen said Jerry call in the morning !

HC. 9/15/03 Called B.B. in Dubois (they said this rating unsatisfactory)

HC 9/15/03 called Attorney General

EXHIBIT "E"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED
SEP 24 2003

www.attorneygeneral.gov

Office of Attorney General
Bureau of Consumer Protection
Administrative Office
14th Floor, Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

Office Use Only Investigator: KS
Complaint # F03-4390 TBS

Code 1 303 Code 2 700 807 815

RECEIVED
SEP 18 2003

William J. McAninch
YOUR NAME

382 Maplevale Rd.
ADDRESS

Brookville PA 15825 Jefferson
CITY STATE ZIP CODE COUNTY

814-849-7290 Same
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Rick Pape and Jerry
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main ST
ADDRESS

DuBois PA 15801 Clearfield
CITY STATE ZIP CODE COUNTY

814 371 6401 800 223 3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids	6-19-02	$2400.00

To what other agencies have you complained? none

What action was taken?

Have you retained an attorney? ☑ Yes ☐ No
If yes, please provide your attorney's name, address and telephone number

Blair Hindman 814 226 6030
415 Wood St Clarion PA 16214

Have you filed a court action? ☑ Yes ☐ No
If yes, please state WHEN, WHERE and WHAT decision was made?

I was awarded a refund.

Your Age
☐ 18-29
☐ 30-44
☐ 45-59
☑ 60 or older

How did you find...

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

[redacted]

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell WHAT happened, WHEN it happened and WHERE it happened. Be specific about any oral statements the business made to you, ESPECIALLY those that influenced you to deal with the company. Describe events in the order in which they happened. Attach COPIES of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

6-19-02 Rick Pape came to my house, took impressions and I gave him $500 and the $1900 balance of 6-24-02 when he delivered the hearing aids.

They never did work and I wanted my money refunded. After several phone calls, during which they told me they had mailed the check, and one check which was mailed but had insufficient funds, I hired an attorney and filed with the magistrate. My last phone call to M.C Jones was 10-10-02. The owner of the business has nothing in his name to attach. After a long battle I finally received my money back in July 2003, but I had legal fees to pay.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I think they should be put out of business so they can't take advantage of any one else. I had my son to help me but what about the people that don't have anyone to help? They need protected, too. Thank you.

[redacted]

William McAninch
YOUR SIGNATURE

9-13-03
DATE

[redacted]

REVISED JUNE 2002

EXHIBIT "F"

CONSUMER COMPLAINT FORM

OMMONWEALTH OF PENNSYLVANIA
FFICE OF ATTORNEY GENERAL

IKE FISHER
ttorney General

BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

RECEIVED
SEP 18 2003
Office of Attorney General

OFFICE USE ONLY

NVESTIGATOR:

COMPLAINT #

Code 1 303 Code 2 800 F03-4276 TBS

YOUR AGE: (STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ☒ 60 or older

OUR NAME JOHN A. ROKOSKY

OME PHONE (814) 371-5749 BEST NUMBER TO CALL DURING THE DAY (814) 371-5748

DDRESS 306 PIFER ST.

TY DUBOIS STATE PA ZIP CODE 15801 COUNTY CLEARFIELD

AME OF BUSINESS COMPLAINT IS AGAINST M.E. JONES HEARING INSTRUMENTS

AME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED LON AMILKAVICH MARK E. JONES

DDRESS 101 N. MAIN ST BOX 686 CITY DUBOIS

ATE PA. ZIP CODE 15801 COUNTY CLEARFIELD PHONE (814) 371-6401 1-800-223-3341

oducts or Services Purchased	Purchase Price
1 RIGHT EAR HEARING AID	2,000.00
LEFT EAR HEARING AID	2,000.00
	$ 4,000.00

If your complaint involves a motor vehicle, please provide the following information:
Mileage on vehicle when purchased
Mileage on vehicle when you started experiencing problems
Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased
Indicate type, name & address of warranty company, if any

at other agencies have you complained to? CLFD. COUNTY DIST. ATTY

at action was taken?

ve you retained an attorney? ☐YES ☒ NO? If yes, please provide your attorney's name, address, & telephone mber

ve you filed a court action? ☐YES ☐ NO? If yes, please state WHEN

HERE and WHAT decision was made?

PLEASE COMPLETE THE REVERSE SIDE OF COMPLAINT FORM

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

Read full page ad in paper & called for an appointment. July 14th, 15th 2003 was to appointment. Woman tested & said 20% hearing loss in left ear & 50% in right. I was told I would completely deaf in a few years but their hearing aids would protect my ears. Their hearing aids would Clarify tones in the brain. Paid $2000 to order. July 24th picked up hearing aids paid $2000. Hearing aids did not help hearing. July 29th returned hearing aids. Would not give me a return receipt. Said come back at 3pm. Did & a man, called the President of Company, said we had to wait 30 days for a refund & he still refuses to give a return receipt. Rep. Durra's office has called many times for refund.

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $4,000.00.

LEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party mplained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the torney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. rough the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer ediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish lations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature John A. Lokey *Date* 9-17-03

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME John A. Rokosky AGE 65

ADDRESS 306 Piper St PHONE (814) 371-5748

CITY DuBois STATE PA ZIP 15801

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	100.00
FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	~~385.00~~	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X John A. Rokosky — John A. Rokosky
CUSTOMER'S SIGNATURE — DATE

Jon V. Auchenbach 2553 — 7-15-03
REGISTRANT'S SIGNATURE — DATE

EXHIBIT "G"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

GERALD J. PAPPERT
ACTING ATTORNEY GENERAL

www.attorneygeneral.gov

RECEIVED
JAN 07 2004
Office of Attorney General

Office Use Only Investigator: KS Code 1 303 Code 2 807 802
Complaint # F04-0121 TBS

Bureau of Consumer Protection
1001 State Street, Suite 1009
Erie, PA 16501
(814) 871-4371

GARVIN A. DILLE (NOW AT: 1610 S. BELCHER RD. LOT 42 LARGO FL 33771 PHONE 727-531-3567)
YOUR NAME

701 WATER ST
ADDRESS

SMETHPORT | PA | 16749 | McKEAN
CITY | STATE | ZIP CODE | COUNTY

814-887-5864
HOME PHONE NUMBER | BEST NUMBER TO CALL DURING THE DAY

M.E. JONES HEARING INSTRUMENTS
NAME OF BUSINESS COMPLAINT IS AGAINST

2 DIFFERENT SECRETARIES & JERRY
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. MAIN ST.
ADDRESS

DuBOIS, PA. | 15801 | McKEAN
CITY | STATE | ZIP CODE | COUNTY

(814) 371-6401 or 1-800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
HEARING AIDS	8-19-03	$3000

To what other agencies have you complained? McKEAN D.A OFFICE - BETTER BUSINESS BUREAU

What action was taken? DA - ADVISED TO CONTACT POLICE DEPT. BBB-AGREED WE WERE GETTING RUN-AROUND.

Have you retained an attorney? ○ Yes ● No

If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ○ Yes ● No

If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Your Age:
- 18-29
- 30-44
- 45-59
- 60 or older

How did you find out about us:
- Visited Office
- Attended County/ Senior Fair or Speaking Engagement
- State Legislator/ Agency
- News Story
- Internet
- Other: Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

I PURCHASED TWO HEARING AIDS ON AUG. 19th WHICH WERE DELIVERED TO OUR HOME ON 8-29-03. WITH ONE MONTH TRIAL PERIOD. AFTER 2 CALLS TO HAVE WORK DONE - ONE AID HAD TO BE TAKEN TO THE SHOP. WE WOULD CALL IN WITH PROBLEMS - ALWAYS TOLD SOMEONE WOULD CALL US BACK. SEVERAL DAYS LATER THEY WOULD CALL SO BECAUSE OF TIME LAPSES THE 1ST MONTH TRIAL PERIOD WAS NEARLY UP SO THE 1st EXTENSION WAS GIVEN. WHEN THEY HAD THE AID IN THE SHOP IT WAS AT LEAST 10 DAYS SO IT WAS LIKE STARTING OVER. WE CALLED AT LEAST TWO MORE TIMES BECAUSE I COULD NOT WEAR AIDS FOR LONG BECAUSE THEY GAVE ME HEADACHES BECAUSE OF PRESSURE - ~~WHEN~~ THUS EXTENDED TO 11-21-03. THE RIGHT AID QUIT WORKING AGAIN AND I'D HAD ENOUGH SO CALLED AND RICK PAPE PICKED THEM UP ON 11-6-03. WE MADE A COUPLE OF CALLS

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

WE WANT OUR REFUND THAT WE HAVE COMING TO US.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Garvin C. Pike

YOUR SIGNATURE

1-5-04

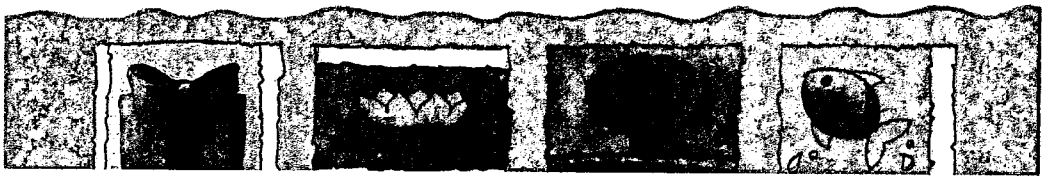
DATE

TOLD IT WOULD BE 30 DAYS BEFORE THE RETURN.
WE WAITED UNTIL AFTER THE 6TH OF DEC. AND
WHEN WE CALLED WE WERE TOLD NOONE WAS IN
THE OFFICE WHO COULD HELP US— AT LEAST 3 TIMES
ON DEC 16TH WE CALLED AND TOLD SECY. WE HAD
CALLED THE D.A's OFFICE, AT 4:00 P.M. A JERRY CALLED
AND SAID HE WOULD SEE THE CHECK WOULD BE IN
THE MAIL BY END OF THE WEEK., WE CALLED THEM.
12-22-23-24. ALWAYS TOLD NO-ONE - TOOK OUR NUMBER.
SOMEONE WOULD CALL— NO CALLS. WE CALLED YOUR
OFFICE 12-24. JERRY CALLED FRI- DEC 26TH AT 3 P.M.
AFTER WE HAD CALLED THE OFFICE IN A.M. AND TOLD
THEM WE HAD CONTACTED YOUR OFFICE, HE WAS AT
HOME ILL AND SAID HE WOULD BE IN OFFICE MON(29th)
AND WOULD CALL. HE DID NOT CALL - SO WE CONTACTED
BETTER BUSINESS AND CALLED HIS OFFICE AT 2:15,
ONCE AGAIN HE CALLED AT 4:00 HAD BEEN TO HOSPI-
TAL AND WOULD CALL FROM OFFICE IN A.M. NO CALL
SO WE CALLED AT 2:00 - HE WAS STILL ILL AND
WOULD BE CALLING. IT IS NOW 4:20 AND NO CALL. I
HAVE EVEN TOLD HIM I WOULD DRIVE DOWN TO DUBOIS
AND HE SAID HE HAS TO SIGN THE CHECK SO THAT
WAS NO GOOD. WHEN WE ASKED WHAT JERRY'S LAST
NAME WAS THE SECY SAID PER NET(?) WHEN I ASKED
HOW TO SPELL IT SHE SAID SHE DIDN'T KNOW, SOUNDS
FISHY TO ME. HE IS SUPPOSED TO BE THE PRESIDENT
OF THE COMPANY?

ON JAN 2nd CALLED M.E. JONES OFFICE. JERRY?
RETURNED CALL ON HIS CELL PHONE. SAID HE WAS
ON WAY TO EMERGENCY ROOM. VERY SICK WITH
FLU & KIDNEY STONES. TOLD HIM WE HAD COMPLAINT
FORM MADE OUT - WAITING FOR COPIES OF CANCELED
CHECKS, HE SAID "PLEASE DON'T MAIL THEM IN
MRS. MILLER" ALSO SWORE ON HIS MOTHER'S GRAVE



WE ARE NOW IN FLA. FOR A TIME. CAN BE REACHED AT 1610 S. BELCHER RD, LARGO, FL 33771 - PHONE 727-531-3567.



M. E. Jones Hearing Instruments
101 N. Main St.
DuBois, PA 15801
(814) 371-6401 or 1-800-223-3341

Trial Period Extension

Name: Gavin Dillie

Address: 701 Water Street
Smethport Pa 16749

Phone: 814-887-5864 ~~5684~~

Purchase Date: 8-19-03

Delivery Date: 8-29-03

Trial Period Extended to: 10-24-03 Extended fill 11-21-03

Approved by: [signature]

Today's Date: 9-24-03

WEARING INSTRUCTIONS FOR YOUR NEW HEARING AIDS

In most cases, it takes many years for a hearing loss to develop. During that time, you become accustomed to not hearing many of the sounds around you. Give yourself the time needed to grow accustomed to those sounds again.

WEEK 1 Wear for 2-3 hours a day in the home only.

WEEK 2 Wear for 4-6 hours a day in and around the home only.

WEEK 3 Wear for 6-8 hours a day under normal circumstances. Avoid extremely loud situations.

WEEK 4 Wear for as long as you like. If certain sounds are uncomfortable after the 4th week, take your aid(s) out and call 1-800-223-3341 for service.

I, Garvin Dille have been given the wearing instructions for my new aid(s) on 8-27-03 and agree to follow these instructions as written and explained by Rick Pope

WARRANTY AND SERVICE CARD

WARRANTY EXTENDED TO: Garvin Dille

WARRANTY EXPIRES: August 2005

MODEL: CD CIC-2 BATTERY SIZE: 10A

SERIAL NUMBER: L 03-108106

R 03-108107

FOR BATTERY & SERVICE NEEDS CONTACT:

M.E. Jones Hearing Instruments
101 N. Main
DuBois, PA 15801
1 (800) 223-3341 or (814) 371-6401

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 8 11 05

Name: MARION A. MILLER Age: 76 b 5-27

Address: 701 WATER ST. Phone: (814) 583 - 5484

City: SMETHPORT State: PA

Zip Code: 16749 County: MCKEAN New ✓ Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI	CIC	RT.	CL.D		
	CIC	LF.	CL.D		

Full Hearing Aid Price	3000.00
Includes Impression Fee 70.00 Fitting & Dispensing Fee 300.00	
Subtotal	3060.00
Down Payment CLD 1358	1500.00
Balance Due CM Levikey	1560.00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

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IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

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THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER (✓). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION (✓).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 11 Day of August year 2005 Purchaser: Marion A. Miller

In presence of:

Countersigned: Mark E. Jones Co-purchaser: _____

Consultant and Registration Number: Mark E. Jones 4535

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME GARLAN A. DILLE AGE 76

ADDRESS 701 WATER ST PHONE (814) 887-5864

CITY SMETHPORT STATE PA ZIP 16749

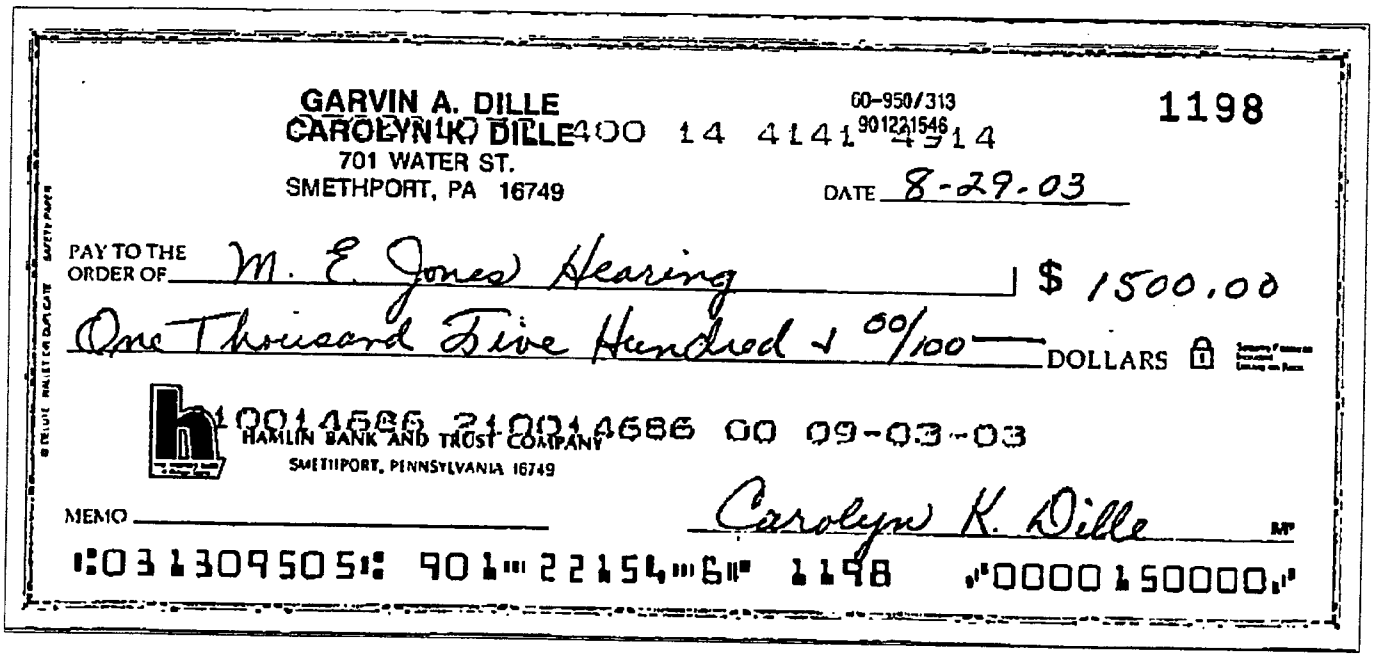
I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	100.00
FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	285.00	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

Garlan A. Dille 8-19-03
CUSTOMER'S SIGNATURE DATE

[illegible] 8-19-03
REGISTRANT'S SIGNATURE DATE



GARVIN A. DILLE
CAROLYN K. DILLE
701 WATER ST.
SMETHPORT, PA 16749

60-950/313
901221546

1198

DATE 8-29-03

PAY TO THE ORDER OF M. E. Jones Hearing $ 1500.00

One Thousand Five Hundred + 00/100 DOLLARS

HAMLIN BANK AND TRUST COMPANY
SMETHPORT, PENNSYLVANIA 16749

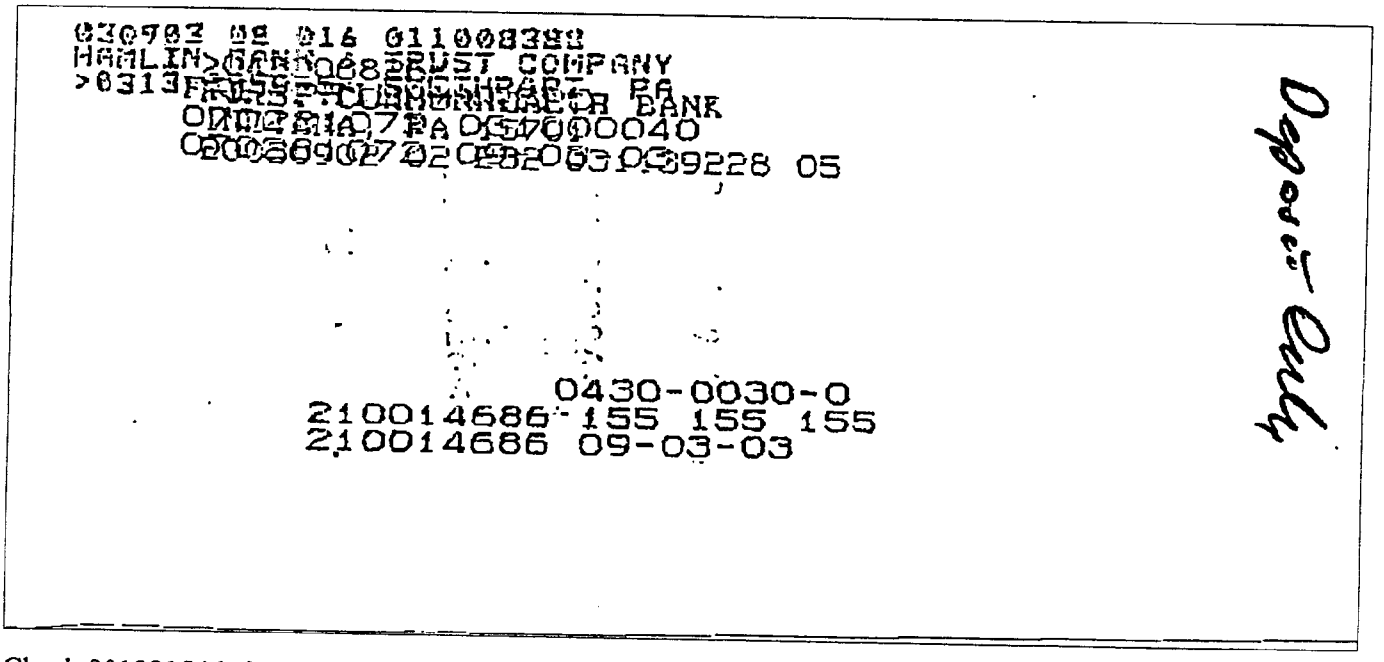
210014686 210014686 00 09-03-03

MEMO

Carolyn K. Dille

:031309505: 901 221546 1198 0000150000

Check 901221546 $1,500.00 Serial# 1198 09/03/03



HAMLIN BANK AND TRUST COMPANY
SMETHPORT, PA

0430-0030-0
210014686 155 155 155
210014686 09-03-03

Deposit Only

Check 901221546 $1,500.00 Serial# 1198 09/03/03

GARVIN A. DILLE
CAROLYN K. DILLE
701 WATER ST.
SMETHPORT, PA 16749

60-950/313
901124478

4968

DATE 8-19-03

140136482 400 14 4509 4846

PAY TO THE ORDER OF M. E. Jones Hearing | $ 1500.00

One Thousand Five Hundred & 00/100 DOLLARS

220005947 220005947 08 08 21 03

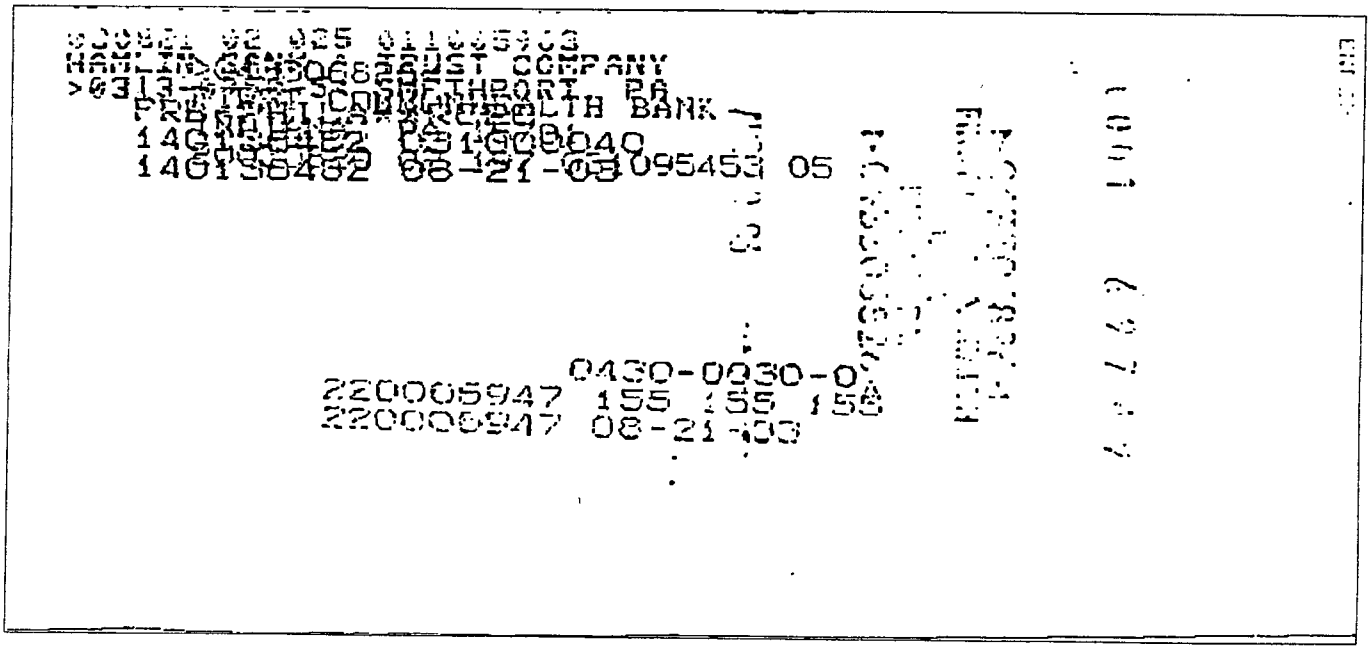
HAMLIN BANK AND TRUST COMPANY
SMETHPORT, PENNSYLVANIA 16749

MEMO

Carolyn K. Dille

⑈031309505⑈ 901⑈1244?⑈8⑈ 4968 ⑈0000150000⑈

Check 901124478 $1,500.00 Serial# 4968 08/21/03



Check 901124478 $1,500.00 Serial# 4968 08/21/03

EXHIBIT "H"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ACTING ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED
JAN 12 2004

www.attorneygeneral.gov

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 949-7900

Office Use Only Investigator:	Code 1	Code 2
Complaint # F04-0095 TBS	303	820 807

CharlesE.Barron
YOUR NAME

1091 W. Main Street
ADDRESS

Somerset	PA	15501	Somerset
CITY	STATE	ZIP CODE	COUNTY

(814) 445-5475 Same #
HOME PHONE NUMBER — BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Instruments Mark E. Jones, Dealer
NAME OF BUSINESS COMPLAINT IS AGAINST

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main St. P.O. Box 686
ADDRESS

DuBois	PA	15801	Clearfield
CITY	STATE	ZIP CODE	COUNTY

814 371-6401 or 800 223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
2 Hearing Aids	12/05/03	$3,000.00

To what other agencies have you complained? None

What action was taken?

Have you retained an attorney? o Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? o Yes ☒ No
If yes, please state **WHEN**, **WHERE** and **WHAT** decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☒ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☒ News Story
- ☐ Internet
- ☐ Other - Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

After seeing an AD in Somerset Newspaper, I made an appointment with M.E. Jones Hearing at Holiday Inn in Somerset 2:15 PM 12/04/03. All personel were courteous. After testing I was quoted a price of $4,400 for 2 Hearing Aids, less $400. off the suggested retail price as stated in the newspaper AD. I said I would like to think it over and then I was quoted a price of $3,800. I said I would have to think it over and went home. Friday12/05/03 the phone rang and it was M.E. Jones Hearing. Message was, it was their last day at Holiday Inn suggesting that we come in and they would let me have the 2 Hearing Aids for $3,000. Order was written up and $1,500 paid on Visa Card and balance to be paid upon delivery which was 12/17/03., delivered by two men.

Shortly after delivery I called to tell them about my problems, whistling noises, feeling like was in a drum and right ear fitting hurting my ear like it was punching too far into my ear. These two men came back to my house 12/23/03 telling me that the one might have to be sent back but made adjustments and said to try them and they would be back next week 12/27/03 - 1/03/04. I mentioned to them that 30 Day Trial period is marching by and was told not to worry, that they can extend the trial period if needed. They did not show up this week as promised.

Saturday's 1/03/04 Johnstown Democrat Newspaper mentioned Civil Complaints filed against M.E. Jones Instruments. I sent a certified, return receipt, letter to them requesting a Refund. Monday 1/05/04 Robert W. Fauls came and picked up the 2 Hearing Aids and promised a refund within 30 days.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I feel that I gave their 2 Hearing Aids a good trial, wearing them around the house and to church and other gatherings. I could not tolerate the whistling and the right ear fitting was hurting my ear like it was punching too far into my ear. I am now wearing my Right Ear Hearing Aid purchased locally a few years ago. It gives me better satisfaction and at time of purchase it carried a 30 Day Trial with Full Refund if not satisfied.

I am requesting a Refund from M.E. Jones Hearing.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Charles E. Barron
YOUR SIGNATURE

Jan. 6, 2004
DATE

Charles E. Barron
1091 W. Main St.
Somerset, PA 15501

Jan. 3, 2004

814 445 - 5475

M.E. Jones Hearing Instruments
Mark E. Jones, Dealer
101 N. Main Street P.O. Box 686
DuBois, PA 15801

Dear Sir:

Dec. 5, 2003 I was checked out for 2 hearing aids here in Somerset Holiday Inn. Delivery was made to me Dec. 17, 2003. I had problems and called your office when two gentlemen came to my home Dec. 23, 2003 making minor adjustments and promised to return next week, which was this week, of Dec. 29 thru Jan. 3, 2004. No one showed up. I still have problems.

I called your office today 1/3/04 at 9:25 AM and talked with JOAN and she promised me she would give you my message. I told her that I am not satisfied and want a Refund within the 30 Days of Delivery which was Dec. 17, 2003. I am contacting the Attorney General's Bureau of Consumer Protection regarding this problem.

This letter will be sent today Registered Mail.

Yours Truly,

Charles E. Barron

CHARLES E. BARRON

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Charles E. Barron AGE 70

ADDRESS 1091 W. Main St. PHONE (814) 445-5475

CITY Somerset STATE PA ZIP 15501

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

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FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	285.00	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

Charles E Barron 12-5-03
CUSTOMER'S SIGNATURE DATE

[signature] 2553 12-5-03
REGISTRANT'S SIGNATURE DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814 371-6401 or 1-800-223-3341

Date

Name: Age:

Address: Phone:

City: State:

Zip Code: County: New: Used: Reconditioned:

Manufacturer: Model: Active Side: Serial Number(s): Battery Size: Access:

RT

LT

Full Hearing Aid Price

(Includes Impression Fee) Fitting & Dispensing Fee

Subtotal

Down Payment

Balance Due

Hearing Aid(s) Ordered on _____ by _____

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF _____ YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID, OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF EDA WAIVER (S). IF THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION.

I, AS THE BUYER, FURTHER, YOU THE BUYER MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This Day of Year Purchaser

In the presence of

Counterpurchaser

Consultant and Registration Number

FIND OUT FOR YOURSELF!

You are invited for a FREE ear inspection using the latest video technology.

SOMERSET

HOLIDAY INN

12/4/03 - 9:15 AM Appointment

3 DAYS ONLY



Call now to avoid waiting

1-800-223-3341

•••IT'S ALL FREE•••

★ **FREE Complete Electronic Hearing Screening**

This Audiometric screening will precisely show what you've been missing.

★ **FREE Video Otoscope Ear Inspection**

This show-all picture of your ear canal is displayed on a color TV monitor so you'll see exactly what we see.

★ **FREE Package of Hearing Aid Batteries**

If you now wear a hearing aid, you will receive one free package of hearing aid batteries if we test your hearing. This offer good for one purchase by hearing aid user only.

★ **FREE In Office Cleaning**

All in-office hearing aid cleanings shall be free, and factory repairs regardless of make or model shall be **25% off!**

OR...Maybe you want better hearing that no-one can see.

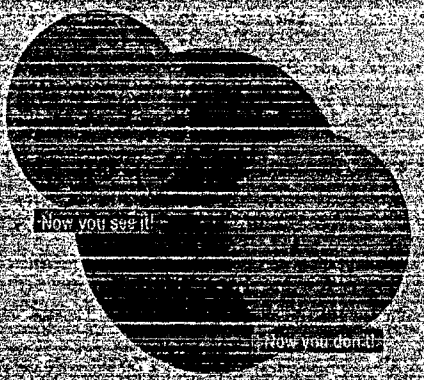
No manual volume controls for you to adjust.

Just slip it into your ear and it adjust itself

automatically as you listen!

$400 Off the suggested retail price of a set of Digital Hearing Aids.

The Digital Programmable Hearing Aid of the future... IS HERE TODAY!



In-Home Appointments Available Upon Request

M.E. Jones Hearing Instruments

HOLIDAY INN

202 HARMON ST., SOMERSET, PA 15501

CALL FOR APPOINTMENT

1-800-223-3341

Hearing tests are given for the purpose of selection and adjustment of hearing instrumentation. Results may vary related to duration and severity of impairment. Early detection is important.

EXHIBIT "I"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED

www.attorneygeneral.gov APR 2 8 2003

Office of Attorney General
Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

Office Use Only	Investigator:	Code 1	Code 2
Complaint #	F03-2297 LJH	303	840

Muriel A Frost
YOUR NAME

85 Doe DRIVE
ADDRESS

Port MAtilda PA 16870
CITY STATE ZIP CODE COUNTY

814-692-8566
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

ME JONES HEARING
NAME OF BUSINESS COMPLAINT IS AGAINST

MS. ARNET
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. MAIN STREET
ADDRESS

DUBOIS PA 15801
CITY STATE ZIP CODE COUNTY

814-371-6411
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
HEARING AIDS	APRIL 16 2003	3500.00

To what other agencies have you complained? _____

What action was taken? _____

Have you retained an attorney? ☐ Yes ☐ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☐ No
If yes, please state **WHEN**, **WHERE** and **WHAT** decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☐ 60 or older

How did you find out about us?
- ☐ Visited Office
- ☐ Attended County Senior Fair or Speaking Engagement
- ☐ State Legislator/Agency
- ☐ News Story
- ☐ Internet
- ☐ Other (Please Specify)

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Hummingbird Hill Bed and Breakfast

85 Doe Drive
Port Matilda, Pa. 16870

Phone 814-692-8566

April 18, 2003

M. E. Jones Hearing Instruments
Mark E. Jones, Dealer
101 N. Main Street
P.O. Box 686
DuBois, PA 15801

Dear Ms. Arnet:,

This letter is to inform you that I wish to cancel our contract written on April 16, 2003. After a lot of personal consideration and discussions with the Attorney General's Office, I feel I do not wish to purchase the hearing aids from your company. As per our conversation on April 17, 2003 and also the Three Day Cooling Off Rule, I do not owe you anything. I expect a credit issued to my credit card within the next ten days.

Thank you for you cooperation in this matter.

Sincerely,

Muriel A. Frost

cc: Timothy B. Shirey, Consumer Protection Agent

EXHIBIT "J"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ACTING ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

www.attorneygeneral.gov

RECEIVED
JAN 12 2004

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 949-7900

Office Use Only	Investigator:	Code 1	Code 2
Complaint # 04-00094		303	820 807

KISTER, JANET O.
YOUR NAME

837 STOYSTOWN Rd.
ADDRESS

SOMERSET PA 15501
CITY STATE ZIP CODE COUNTY

814-443-6126
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. JONES HEARING INSTRUMENTS.
NAME OF BUSINESS COMPLAINT IS AGAINST

JON V. ANICKAVICH - DEBBIE
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

ADDRESS

CITY STATE ZIP CODE COUNTY

PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
2 HEARING AIDS	12-4-03	1500.00 each
		3,000.00

To what other agencies have you complained? MY ATTORNEY & MY JOHN P. MURTHA — CONGRESSMAN

What action was taken? I WANTED TO GO THRU YOU FIRST.

Have you retained an attorney? ● Yes ○ No
If yes, please provide your attorney's name, address and telephone number

I INFORMED HIM I WAS GOING THRU YOU FIRST

Have you filed a court action? ○ Yes ● No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☐ 60 or older

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

...complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be ... WHEN it happened and WHERE it happened. Be specific about any oral statements the business made ... influenced you to deal with the company. Describe events in the order in which they happened. ... all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate ...

On 12-30-03, I recieved (2) Telephone Calls A man Repeasenting M.E Jones ... A Set up A Time for me To come To The Holiday Inn in Somerset. PA ... Hearing Test And free Cleaning - After The Second Call, I made An ... for The next day at 10:00 - He Called back asking if he could change The Time To 3:00 PM, because they were So busy When I Arrived Jon Amickavich Sta it would be awhile - While I was waiting A Elderly Lady came, Sat down by me Stating She had An Appointment - Said She was wearing One of Their Aids And Really liked it, but had To get A new one - At 3:45 Jon Took me in And A woman by The name of Debbie came in - Checked my ears, Said They didn't Need Cleaned - And proceeded With The Test - And really Stressed how badly I needed Aids The one She Recommended was their highest priced one - but it was The small one I really liked - When I asked The price

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

My $500.00 back - Make sure They weren't paid by Security Blue - Their Service was Advertised as free And I didn't even See A Hearing Aid

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Janet O. Kuster
YOUR SIGNATURE

1-9-04
DATE

IV

She said it was $4500.00 I immediately started to get up saying I wasn't paying that price - She then patted my hand, saying she could give me a really good deal, if I would allow them to use my name for advertising - that I would have to sign a contract stating so - (which I never saw) the price would then be $3,000.00 She wanted a down payment of $500.00, which I so foolishly gave her - when I asked about what happens to my money, if after the 30 day trial she said I would get it all back, because Security Blue would pay them the 500.00 Then Jon A. came in - had me sign a medical waiver and a Disclosure Agreement after reading it very carefully, I asked about the $35.00 fee per car for the impressing, saying I thought everything was free - he assured me that would come off the price - showed me the ink slip where I wasn't charge for it. - put the oil in front of me - the only figure on that paper was for $35.00 for each car - the rest was blank - Debbie then appeared - kept talking to

III

THEM AND TALKED TO JERRY - TOLD HIM MY STORY AND HE SAID HE WOULD SEND ME A CHECK FOR THE FULL AMOUNT - I CALLED FOR THE NEXT 3 WKS - WAS ALWAYS GIVEN SOME EXCUSE - THAT'S WHEN I CALLED MY ATTORNEY AND MY CONGRESSMAN, JOHN P. MURTHA. THEY GAVE ME YOUR NO - I WANT TO GET THEM OUT OF BUSINESS - I WENT THRO "HELL" OVER THE HOLIDAYS - VERY LITTLE SLEEP - MY BLOOD PRESSURE WENT OVER THE TOP - MY ATTORNEY THINKS I SHOULD DEMAND MONEY FOR PAIN AND SUFFERING - I WANT THEM OUT OF BUSINESS AND TO MAKE SURE THEY DO NOT GET PAID BY SECURITY BLUE

SINCERELY

JANET. O. KISTER

MEDICAL WAIVER

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

JON V. AMICKANICH 2553
(Registrant's Name) has fully and clearly informed me of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

(Signature of Registrant)

(Signature of Purchaser)

12-4-08
(Date)

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Janet Kister AGE 78

ADDRESS 837 Stoystown Rd PHONE (814) 445-6126

CITY Somerset STATE PA ZIP 15501

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

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IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	285.00	TOTAL $	285.00

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Janet A. Kister 12-4-03
CUSTOMER'S SIGNATURE DATE

[signature] 7553 12-4-03
REGISTRANT'S SIGNATURE DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Name: JANET KISTER Date: 12-4-05

Age: 76 6-28-25

Address: 257 YOUNGTOWN RD Phone: (814) 445-6126

City: SOMERSET State: PA

Zip Code: 15501 County: SOM New ✓ Used ____ Reconditioned ____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
WIDEX	CIC	RT	CL.D		
	CIC	LF	CL.D		

Full Hearing Aid Price 3000.00

Includes Impression Fee 100 Fitting & Dispensing Fee 500.00

Subtotal 3000.00

Down Payment CK 1021 ..... -500.00

Balance Due ..... CH REC'D ..... 2000/500 mo.

CL.CLE 11 1655220525.00 10 BE PAID 500.00

1-800-955-2593 GR.0650000 GUARANTEE 1 SEE PAGE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID, OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER (✓). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION (✓).

☐ IN THE HOME FITTINGS - YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 4 Day of DEC year 2005 Purchaser: Janet O Kister

In presence of: _____ Co-purchaser: _____

Countersigned: _____

Consultant and Registration Number: LYN V. MILLIKAVICH 2553

NOTICE OF PRIVACY PRACTICES FOR M.E. JONES HEARING INSTRUMENTS

This notice describes how hearing health information about you may be used and disclosed and how you can get access to this information. Please review it carefully.
If you have questions about this notice please contact:
Jo Ellen Pape, Privacy Officer
101 N. Main Street
DuBois, PA 15801
814-372-6401 or 1-800-223-3341

To Our Patients: This notice of Privacy Practices describes how health information about you, as a patient of M.E. Jones Hearing Instruments of DuBois, PA may be used and disclosed, and how you can get access to your hearing health records. This is required by the Privacy Regulations created as a result of the Health Information Portability and Accountability Act of 1996 (HIPAA).

Our Commitment to Your Privacy We realize that these laws are complicated, but we must provide you with the following important information.

Use and Disclosure of Your health information in Certain Circumstances. The following circumstances may require us to use or disclose your hearing health information:

1. To public health authorities and health oversight agencies that are authorized by law to collect information.
2. To hearing aid manufacturers for administrative purposes.
3. Lawsuits and similar proceedings in response to a court order.
4. Law enforcement officials, if required to do so by law.
5. When necessary to reduce or prevent a serious threat to your health and safety.
6. For workers compensation and similar programs.
7. To correctional institutions or law enforcements officials if you are an inmate or under the custody of a law enforcement official.
8. To long term care facilities, assisted living or personal care homes, if you are a resident.
9. To support continued hearing healthcare on your behalf.

YOUR RIGHTS REGARDING YOUR HEARING HEALTH INFORMATION

1. **Communications - you can request that we communicate with you about your hearing health related issues in a particular manner or in a particular location.** For instance you may request that we contact you at home rather than work or communicate through a family member that you designate. We will do as much as we can to accommodate your reasonable requests.

2. **You can request a restriction in our use or disclosure of you hearing health information for treatment, payment, or health care operations.** Also, you have the right to request that we restrict our disclosure of your hearing health information to only certain individuals involved in your care or the payment for your care such as family members or friends. We are not required to agree to your request, however, if we do agree, we are bound by our agreement except when otherwise required by law, in emergencies, or when the information is necessary to treat you.

3. **You have the right to inspect and obtain a copy of your hearing health records that is contained in a designated records set that may be used to make decisions about you.** You may submit your request in writing and submit it to our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801

4. **You may ask us to amend your hearing health record if you believe it is incorrect or incomplete and as long as the information is kept for our use.** To request an amendment, your request must be in writing and submitted to our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801. You must present us with clear reasons that support your request for amendment.

5. **You are entitled to receive a copy of this Notice of Privacy Practices.** You may ask us to give you a copy of this notice at any time. To obtain a copy of this notice, contact our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801

6. **You have the right to file a privacy complaint if you believe your privacy rights have been violated.** You may file a complaint with our facility or the Secretary of the U.S. Department of Health and Human Services. To file a complaint with us contact our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801. All complains must be in writing. You will not be penalized for filing a complaint.

7. **You have the right to provide an authorization for other uses and certain disclosures of your hearing health information that are for reasons *other than treatment, payment, or healthcare operations.*** M.E. Jones Hearing Instruments will obtain your written authorization for uses and disclosures that are not identified by this notice or permitted under applicable law.

EXHIBIT "K"

CONSUMER COMPLAINT FORM

RECEIVED
AUG 19 2003
Office of Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
Attorney General

RETURN TO: BUREAU OF CONSUMER PROTECTION
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, Pennsylvania 15931
(814) 949-7900

4711831

OFFICE USE ONLY			
INVESTIGATOR:		COMPLAINT #	
Code 1: 303	Code 2: 807 840	F03-3941TBS	

YOUR AGE:
(STATISTICAL & ENFORCEMENT PURPOSES ONLY)
☐ 18-29 ☐ 30-44 ☐ 45-59 ● 60 or older

YOUR NAME William M. Ritter

HOME PHONE (814) 238-5057 **BEST NUMBER TO CALL DURING THE DAY** (814) 238-5057

ADDRESS 2322 Abington Circle

CITY State College **STATE** Pa. **ZIP CODE** 16801 **COUNTY** Centre

NAME OF BUSINESS COMPLAINT IS AGAINST M. E. Jones

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

ADDRESS c/ 101 N. Main St. **CITY** Dubois

STATE Pa. **ZIP CODE** 15801 **COUNTY** Clearfield **PHONE** (814) 371-6401

Products or Services Purchased	Purchase Price
Hearing Aid	3000.00

If your complaint involves a motor vehicle, please provide the following information:

Mileage on vehicle when purchased

Mileage on vehicle when you started experiencing problems

Vehicle was purchased as ☐ New ☐ Used ☐ As-Is ☐ Leased

Indicate type, name & address of warranty company, if any

What other agencies have you complained to? GMAC Credit Card

What action was taken? Not able to help us. (Letter attached)

Have you retained an attorney? ☐YES ☒ NO? If yes, please provide your attorney's name, address, & telephone number

Have you filed a court action? ☐YES ☒ NO? If yes, please state **WHEN**

WHERE and **WHAT** decision was made?

PLEASE COMPLETE THE REVERSE SIDE OF COMPLAINT FORM

Please explain your complaint. You may use additional sheets, if necessary. Please write or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

We answered a AD in the Centre Daily Time for M & Jones would come to your home for hearing Aid test & hearing aid information
4/14/03 Came to our home at 6:00 PM we decided not to take service try to contact them within the first 3 day but we could only leave message with girl who answerd phone but never called us back they have NO answering service they contact us on 4/23 they were coming for fitting & we told them we did not want the merchandise <See attached> called numerous time before this no return calls we would like to have the credit of difference

WHAT WOULD YOU WANT THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

We would like a credit for the difference Put on our credit card

PLEASE READ CAREFULLY

The information you provide will be used in attempt to resolve your complaint and will be shared with the party complained against. It may also be used to enforce applicable laws.

The Attorney General can not act as your private attorney. As a law enforcement agency, the primary function of the Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices. Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints.

Your complaint does remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Your Signature William G. Ritter *Date* 8-14-03

Of the difference Of $1030.00 Credit
to ave Gm Card See attached.
We did not take the merchandise
& accordiwg to the contract it
we cancel in 30 day we should
beable to get $1030 credit
See attached

Thank you
William Ritter
Fran McCoy

Subject: M&J Jones Hearing Aid Charge
William Ritter
Frances McCoy
Amount $1500.00
Account # 5466 4102 6057 6357

We have M&J Jones Rep come to our home on April 14 at 6:00 for free hearing test which were advertised in the Centre Daily Times in State College Pa.
Mr. R. Her we know had a hearing problem before this but we did not know how severe we also wanted to see what they offered Test show he has a 70% hearing lost in both ears & show us with some kind of hearing aid neck up to his machine it could be treatable The gentle man Lew from company & a lady Represantative Came in our home like if they owned it very bold walking right through it & very Pushy Said we must do something now before it got worse I asked how much & they said $3000.00 $1500.00 for each aid we said we have to think about it but they pushed it as a one time offer & should split in 2 card payment of $1500.00 We felt put on the spot & they made him feel really bad because his hearing is bad & not sure if he knew what should do We felt very put on the spot with all this left some of their stuff & came back the next day [illegible]

We tried to call the office later that evening but could not get thru to them about we wanted to think over it NO way to leave a message for NO Answering System & NO direct contact to the Representative

4-16 Called to get reference of other people who have used the service but would not give out due to privacy ACT

4-17 Called Pa Representative Herman about the issue : said to contact Better Business Bureau & call if we need more help

4-17 Call Better Business Bureau in Harrisburg PA to let out had some problem with this service at 10:AM 4PM

4-18 Call ME Jones to talk to President but told twice not in ~~to~~ by the girls on the Phone at 9:00AM

4-19 Called ME JONES on a Sat morning but NO ANSWER

4-23 Called to said we coming on April 23 for the Hearing between 1:30 : 2:30

4-23 -Call Audiology ~~Dept~~ Dept at Center Community Hospital The Audiologist Said Client have Complaint about the Service, She tell we should get most of our money back for to fact we Never get them never to have them put in

9:00 called M&J one girls said he was not in
10.30 called M&J Jones office again & spoke to Jared was very nasty & told due the privacy act he would not talk to me even though my name is on the wrap

10:45 came home from work to tell Mr. R He to not have the fitting done because they would become are property & used Equip
Mr Ritter called to see if I know could get your message & just said he worked for them
11:00 called again to girls we were canceling the appointment

11:30 a guy name Rick was coming for fitting & called Mr. Ritter told him were not taking the fitting

from M&J Jones
Jared call me at my work & to apologize about being so nasty cause he thought I was someone else from their ~~business~~ Lewisburg office wanted to know why we canceled but I said I had no more to say to him & hung up

1. We feel the people very push & Bold Bill does not feel he understood every thing they said because he does miss a lot in hearing
2. Would give us never refrence
3 Never could reach any of the M E Jones people. No answering Service
4. Put on charge before are three day cancellation was up
5 People were very nasty ~~other~~ when we finally get hold of them
6 The service not of the quality it should Be
7 did not take ther merchandise

We hope to get a full Credit because of how were treated

Thank you
James m McCoy
William D. Ritter

Tried numerous time to contact Lew about this but we never were able to thru ME Jones Company

7/12 Recieved letter from GM Card Dispute office said they couldnot due any thing because we didnot cancell with in 30days but cancelled 2 week later we should beable to get a partielle credit it cancelled in 30days as state on slip see attached we tried to cancel in 3 days But no one their would return any calls

7/14 called GM dispute 12.00now

7/14. Bill called M&JONES at 10:00am took message would have someone call us back No one did

7/15 Bill called M&JONES again left message they told him he should have credit on GM Card on his next Statemen

7/21 Received statement NO credit on GM card Statement

7/21 - went to Hermaw office told us to wait for statement called M&JONES got satisfactio

7/25 - called Herman office

~~[illegible]~~

Called M & Jones got no satisfaction
Told us to call G-m card about finance
~~to see if the Estella~~
~~Finance charge were~~
Talk to Estella about finance charges she called M & Jones & told her that the bookkeeper only work one day a week & would diffinetly call us back by 5PM Friday ~~July~~ Aug 1 & 2003

Bookkeeper never called us
Tried recalled Estella at 5 PM on Friday was not able to reach her.

8/4 - Bill called M & Jones still could not get anyone to tell us anything

Estella called from G-m Card us at 4:15 told her we did not recieve call from M & Jones week of 8/1/03 Estella called M & Jones at the time 4.30 PM while Bill was put on hold & told Estella that would contact Bill on ~~Fri~~ 8/5/03 we received no Phone call

8/5 Fax a copy of Agreement to Estella at GM Dispute dept at ~~1~~ 10:30 in the morning

8/6 Call GMAC card to see if recieved fax told us to call back Friday on 8/8/03 to check status

8/8 called GM Card & said to call back on Tuesday

8/12 called Tuesday said they could not do anything for us.

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME William Ritter AGE 73

ADDRESS 2322 Abington Circle PHONE (814) 238-5057

CITY State College STATE PA ZIP 16801

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

We did not receive because we canceled on April 23 2003

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	75.00	CANCELLATION $	75.00
FITTING/DISPENSING $	125.00	FITTING/DISPENSING $	125.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	235.00	TOTAL $	235.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X William G. Ritter
CUSTOMER'S SIGNATURE

DATE

REGISTRANT'S SIGNATURE

DATE 4/14/03

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 9/14/05

Name: WILLIAM RITTER Age: 76 2/22/30

Address: 2322 ADINGTON Phone: (814) 236-5057

City: STATE COLLEGE State: PA

Zip Code: 16801 County: CENTRE New ____ Used ____ Reconditioned ____

Manufacturer	Model	Active Side	Serial Number(s)	Custom Earmold	Receiver Cord	Battery Size	Access
MSI	FULL COMP	RT.					
	FULL COMP	LF.					

Full Hearing Aid Price ..... [illegible]

..... [illegible]

Subtotal ..... [illegible]

Down Payment ..... [illegible]

Balance Due ..... [illegible]

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 1 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

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I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION( ).

YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This ____ Day of ____ Year ____ Purchaser: William H. Ritter

in presence of:

Countersigned: ____ Co-purchaser: ____

Consultant and Registration Number: ____

MEDICAL WAIVER

Bev HWS

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

LON AMLICHWICH has fully and clearly informed me
(Registrant's Name)

of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

(Signature of Registrant)

(Signature of Purchaser)

4/14/03
(Date)

visit gmcard.com to manage your Account online

Customer Center
1-800-947-1000
P O Box 80082
Salinas, CA
93912-0082

Payment Address
THE GM CARD
PO BOX 88000
BALTIMORE MD
21288-3000

Quick-Look Account Summary

Account Number	5466 4102 6057 6357	Total Credit Limit	$5,500
Statement Date	4/18/03	Total Cash Advance Limit	$5,500
New Balance	$1,824 49	Available Credit	$3,675
Payment Requested By	5/08/03	Available Cash Advance	$3,675
Minimum Payment Due	$37.00	# Days This Billing Cycle	31
Amount Past Due	$0.00	Page	1 of 1

Visit us at www gmcard com 008452 01-01 008451/PM CPA1

GM Platinum Card Transactions

Transaction Date	Post Date	Description			Amount	Reference Number
03/22	03/24	ECKERD HEALTH	800-527-9027	TX	$6.50	MT030830028000010416768
03/24	03/26	THE HOME DEPOT 4120	MECHANICSBUR	PA	$270.30	MT030850029000010291069
04/07	04/07	PAYMENT - THANK YOU			$81 46CR	20407030010090511301601
04/06	04/08	TARGET 0001:2880	STATE COLLEGE	PA	$47.69	MT030980029000010005937
04/15	04/16	M E JONES HEARING INST	DUBOIS	PA	$1,500.00	MT031060033000010035503

Account Activity

Previous Balance	- Payments and Other Credits	+ Purchases, Cash Advances, Fees and Other Debits	+ Finance Charges	= New Balance
$81 46	$81 46	$1,824 49	$0.00	$1,824 49

Finance Charge Calculation

	Average Daily Balance	Daily Periodic Rate	Nominal Annual Percentage Rate	Finance Charge	Cash Advance Fees	Annual Percentage Rate
Purchases	$0.00	0 0271%	9 90%	$0.00	$0.00	0.00%
Cash Advances	$0 00	0 0548%	19.99%	$0 00	$0.00	0 00%

Earnings Summary

Previous Earnings	$262.85	New Earnings Total	$354.08
Earnings Received	$91.23	Anniversary Date	9/27/92
Additional Earnings	$0.00	Anniversary Y-T-D Earnings	$113.58
Earnings Adjustments	$0.00	Lifetime Earnings Redeemed	$0.00
Current Period Earnings	$91.23		

Remember, every time you make a purchase with your GM Card, you'll earn 5% in GM Card Earnings℠. You can save hundreds, even thousands on the purchase or lease of your new GM car or truck (excluding Saturn, Saab and EV1). Choose from over 50 brands.

When you're ready to redeem your GM Card Earnings to buy or lease an eligible new GM car or truck, call us at 1-800-947-1000

GMAC Card
AH Billing Dispute
800 82
PO Box CA
Salinas 93912

(Please detach and return bottom portion with payment and retain top portion for your records. Do not staple or clip your check to the form below.)

The GM Card℠

Make Check Payable to: The GM Card

Please write your account number on your check, do not send cash
Do not fold, staple or clip
Please send your payment 7 days prior to the requested by date to ensure timely delivery
Submit one check or money order per payment coupon
See reverse for more information

Quick-Look Account Information

Account Number	Payment Requested By	New Balance	Amount Past Due	Minimum Payment Due
5466 4102 6057 6357	5/08/03	$1,824 49	$0 00	$37.00

What are you charging toward?℠

Amount Enclosed $

S008452 I 103456089000

WILLIAM G RITTER
FRANCES M MCCOY
2322 ABINGTON CIR
STATE COLLEGE PA 16801-2416

THE GM CARD
PO BOX 88000
BALTIMORE MD 21288-3000

EXHIBIT "L"

ME JONES CONSUMER COMPLAINTS			
	CASE_NO	LAST NAME	FIRST NAME
1	2003000005330	Adamik	Mary
2	2004000000095	Barron	Charles
3	2004000000122	Black	Lucille
4	2004000000122	Black	Paul
5	2004000000127	Boone	Grant
6	2003000003197	Calhoun	Donna
7	2003000005383	Claycomb	I.
8	2004000001059	Counselman	Paul
9	2004000000369	Cummings	Connie
10	2004000000126	Dean	Charlotte
11	2004000000009	Dickey	Betty
12	2004000000121	Dille	Garvin
13	2004000000050	Ditch	Walter
14	2004000001649	Fleegle	Connie
15	2004000001649	Fleegle	Ronald
16	2004000000170	Freeman	Robert
17	2003000002297	Frost	Muriel
18	2003000001820	Hartman	Richard
19	2004000001702	Hastings	Stanley
20	2004000000247	Hutzell	Harriet
21	2003000003464	Kaizer	William
22	2004000000128	Kelly	Albert
23	2004000000094	Kister	Janet
24	2004000000123	Litzenberger	Donald
25	2004000000124	Litzenberger	Margaret
26	2004000000105	Lumadue	Robert
27	2003000004390	McAninch	William
28	2004000000104	McMinn	Ronny
29	2004000000111	Mock	Clair
30	2003000000277	Newell	William
31	2003000005157	Overly	William
32	2004000000097	Peticca	Joseph
33	2003000003941	Ritter	William
34	2003000004276	Rokosky	John
35	2003000005389	Sandstrom	John
36	2003000003987	Schauer	Willis
37	2003000005339	Smith	L. Marie
38	2003000002817	Spanogle	Margaret
39	2004000001623	Stein	Eleanor
40	2003000003446	Styers	Ronald
41	2003000003991	Swaney	Blanch
42	2003000004082	Swaney	William
43	2004000000223	Williams	Alvin
44	2004000000223	Williams	Eleanor
45	2004000000096	Williams	Richard
46	2003000004539	Woodring	H.
47	2004000000515	Wright	Josephine

EXHIBIT "M"

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

September 23, 2003

David J. Hopkins, Esquire
The Hopkins Law Firm
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Mr. Hopkins:

Enclosed with this letter is a complaint we just received from John A. Rokosky indicating that your client has violated both the Hearing Aid Sales Registration Law and the Preliminary Injunction Order that was entered by Judge Riley by failing to provide a refund to Mr. Rokosky within 30 days of his return of the hearing aids. From a recent review of new complaints it appears that your client has engaged in a pattern of failing to make timely refunds in transactions which involved consumers' requests for either 3-day cancellations or the 30-day refunds.

This letter is to put you on notice of these continued violations.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

Enclosure

EXHIBIT "N"

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

MIKE FISHER
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED
DEC 15 2003

www.attorneygeneral.gov

Office of Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814)471-1831

Office Use Only Investigator:	Code 1	Code 2
Complaint # F03-5383 TBS	303	800

I Stanley Claycomb
YOUR NAME

120 Ford Country Lane
ADDRESS

Osterburg | Pa | 16667 | Bedford
CITY | STATE | ZIP CODE | COUNTY

814-276-3272 | 814-276-3272 | 276-3050.
HOME PHONE NUMBER | BEST NUMBER TO CALL DURING THE DAY

M F Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Mark E Jones - Dealer
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N Main St. PO Box 686
ADDRESS

DuBois | PA | 15801
CITY | STATE | ZIP CODE | COUNTY

814-371-6401 or 1 800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
L & R CIC Hearing Aids	Sept. 18, 03	4200.00

To what other agencies have you complained? Dept. of Health - Harrisburg, Pa.

What action was taken? Currently working on Complaint

Have you retained an attorney? ☐ Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☒ No
If yes, please state **WHEN**, **WHERE** and **WHAT** decision was made?

Your Age:
18-29
30-44
45-59
X 60 or older

How did you find out about us:
☐ Visited Office
☐ Attended County/ Senior Fair or Speaking Engagement
☐ State Legislator/ Agency
☐ News Story
☐ Internet
X Other- Please Specify: Audiologist Office

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint. Sept. 18, 2003 - 145 Clark Bldg #5 - Bedford, PA 15522

I was told: I had significant hearing loss - almost total in my right ear; that I needed 2 hearing aids - not 1 as I had had previously; that the CIC's would greatly improve my hearing; that I would hear much better on the telephone; background noise greatly reduced (with 2 hearing aids). They would come at anytime to the house to program - adjust - or whatever I needed - even to auctions since I am an auctioneer. During the first week chewing & scratching my head were loud & annoying. I called - they came - Sept. 26 to "ADJUST" the CIC's and ended up taking one back because it wouldn't work. 2 weeks later it is returned the man was very nasty and said I had to get used to them and work with the COMPANY. At that time the other hearing aid did not work so they took it. It was gone for over

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I would like a total refund for this product - no other replacements of any type -

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

a week before it was returned - not in person but (2)
by UPS. - By this time the 30 day refund policy
has expired - they aren't any better and they
said they didn't need to come to an auction.
The last several attempts for service resulted in
at least 1½-2 wks for some one to show up.

On Dec. 2, 2003 I received a hearing test
from Karen Lemme - Audiologist in Altoona, Pa.
She told me: my right ear was my better ear.
that the CIC's actually "plugged" my ears as
far as hearing certain ranges related to my loss.
She fitted me with a behind the ear hearing aide
which seems to be working fine. There is a 60 day
total refund available.

I had called Nov. 21, 2003 to ME Jones -
was told I could not get a refund - A manager
would call. No one called until Dec. 1st - and left
a message to contact them.

The audiologist checked the CIC's from ME Jones
even put new batteries in and neither one would work
This company never offered any other type of hearing
aide just their most expensive. Assured me they would
greatly improve my hearing. Service would be available
anytime. When I asked about using the phone - after I
had them - they said they were the best it could be - I
saw no difference.

(5)

According to the "Nurse ??" and "tester" on Sept. 18, 2003 these hearing aides would be short of a miracle - The extended range in which I could hear would be fantastic.

These hearing aides have done little if anything to improve my hearing. The extra problems they created were worse than the original loss. They were not available as they promised - Home visit #2 turned rather nasty and harsh when the man talked to me. It all sounded great that day but their promises and assurances were short of lies. They basically collected my money and were on their way.

Now I find out that several other older people in my area are facing exactly the same situation with these people. At 81 years old I cannot afford to lose $4200.00 on a product that promised to improve my hearing let alone try to purchase something that does work.

Thank you

J Stanley Clay Com

J Stanley Clay Com

WARRANTY AND SERVICE CARD

WARRANTY EXTENDED TO: I. Stanley Claycomb

WARRANTY EXPIRES: September 2005

MODEL Pro CIC - 2 BATTERY SIZE: 10a

SERIAL NUMBER: L 03-16822 1

R 03-16 222

FOR BATTERY & SERVICE NEEDS CONTACT:

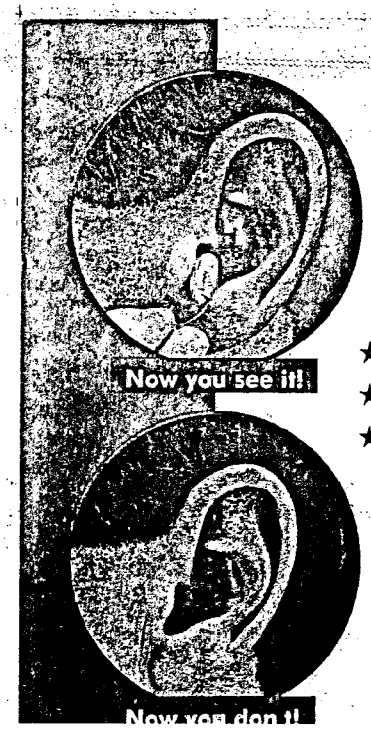
M.E. Jones Hearing Instruments
101 N. Main
DuBois, PA 15801
1 (800) 223-3341 or (814) 371-6401

WARRANTY INFORMATION

This certifies that the Hearing Instrument(s) identified on this card will be repaired or replaced by MFG if failure due to defective parts or workmanship occurs prior to the warranty expiration date.

Parts or service-labor furnished by other than MFG are not covered by this warranty, nor are batteries or damage due to misuse, abuse, negligence, or unauthorized repairs.

For service or battery needs contact the office on the reverse side of this card.



Space Age Digital Technology
so small it hides out-of-sight, while it performs millions of precise calculations per second to give you the highest range of comfortable hearing.
Designed to assist those who:

★ Hear conversation but can't understand the words.
★ Have trouble understanding with background noise.
★ Have trouble hearing while on the telephone.

$400.00 OFF
suggested retail price of a set of Digital Hearing Instruments
(2 hearing aids)

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 9-18-03

Name: I. STANLEY CLAYCOMB Age: 80 1-17-23

Address: 120 FORD COUNTRY LANE Phone: (814) 276-3272

City: OSTERBURG State: PA

Zip Code: 16667 County: BEDFORD New Y Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI	CIC	RT. PRD			
	CIC	LF. PRD			

Full Hearing Aid Price	4600.00
Includes Impression Fee 70.00 Fitting & Dispensing Fee 360.00	
DISCOUNT	-400.00
Subtotal	4200.00
Down Payment CK # 590	-2100.00
Balance Due ON DELIVERY	2100.00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER (K). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION (K).

DNA ☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 18 Day of SEPT year 2003 Purchaser: X I Stanley Clay Comb

In presence of: _____

Countersigned: _____ Co-purchaser: _____

Consultant and Registration Number: LOU V. AMICKAVICH 553

WEARING INSTRUCTIONS FOR YOUR NEW HEARING AIDS

In most cases, it takes many years for a hearing loss to develop. During that time, you become accustomed to not hearing many of the sounds around you. Give yourself the time needed to grow accustomed to those sounds again.

WEEK 1 Wear for 2-3 hours a day in the home only.

WEEK 2 Wear for 4-6 hours a day in and around the home only.

WEEK 3 Wear for 6-8 hours a day under normal circumstances. Avoid extremely loud situations.

WEEK 4 Wear for as long as you like. If certain sounds are uncomfortable after the 4th week, take your aid(s) out and call 1-800-223-3341 for service.

I, _____ have been given the wearing instructions for my new aid(s) on 9/25/03 and agree to follow these instructions as written and explained by

T Smoller

WEARING INSTRUCTIONS FOR YOUR NEW HEARING AIDS

In most cases, it takes many years for a hearing loss to develop. During that time, you become accustomed to not hearing many of the sounds around you. Give yourself the time needed to grow accustomed to those sounds again.

WEEK 1 Wear for 2-3 hours a day in the home only.

WEEK 2 Wear for 4-6 hours a day in and around the home only.

WEEK 3 Wear for 6-8 hours a day under normal circumstances. Avoid extremely loud situations.

WEEK 4 Wear for as long as you like. If certain sounds are uncomfortable after the 4th week, take your aid(s) out and call 1-800-223-3341 for service.

I, _____ have been given the wearing instructions for my new aid(s) on 9-26-03 and agree to follow these instructions as written and explained by

Rick Popp

MEDICAL WAIVER

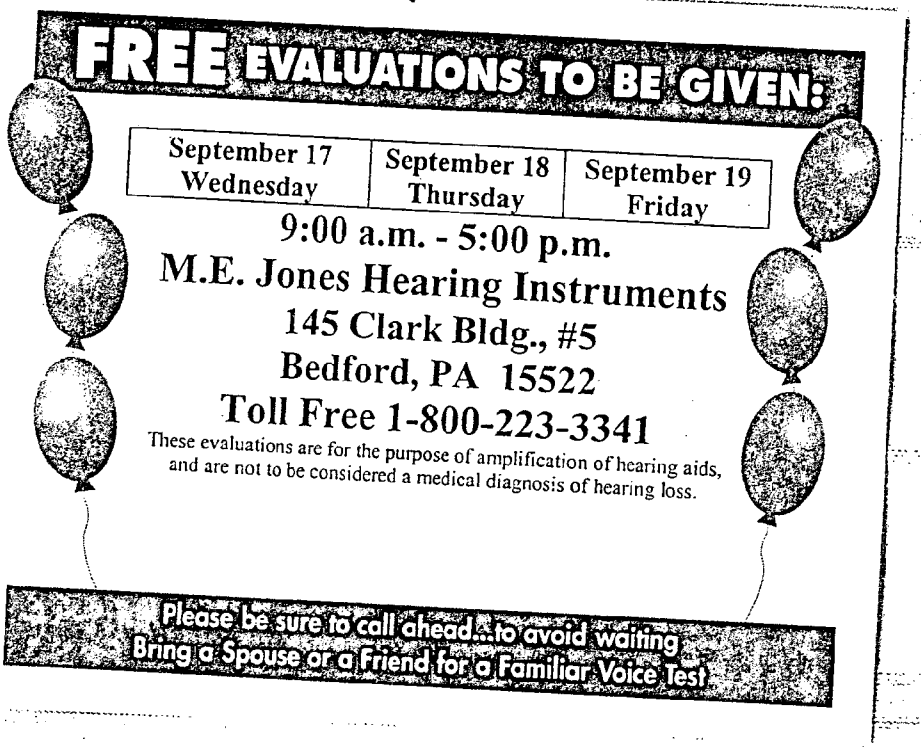
"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

LON V. AMILKAVICH 2653
(Registrant's Name) has fully and clearly informed me of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

(Signature of Registrant)

(Signature of Purchaser)

4-18-03
(Date)


FREE EVALUATIONS TO BE GIVEN:
September 17 Wednesday
September 18 Thursday
September 19 Friday
9:00 a.m. - 5:00 p.m.
M.E. Jones Hearing Instruments
145 Clark Bldg., #5
Bedford, PA 15522
Toll Free 1-800-223-3341
These evaluations are for the purpose of amplification of hearing aids, and are not to be considered a medical diagnosis of hearing loss.
Please be sure to call ahead...to avoid waiting
Bring a Spouse or a Friend for a Familiar Voice Test

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME I. STANLEY CLAYCOMB AGE 80

ADDRESS 120 FORD COUNTRY LANE PHONE (814) 276-5272

CITY OSTERBURG STATE PA ZIP 16667

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	100.00
FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	285.00	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

I. Stanley Claycomb — 9-18-03
CUSTOMER'S SIGNATURE — DATE

Lori V. Quillman 2553 — 9-18-03
REGISTRANT'S SIGNATURE — DATE

M.E. Jones Hearing Instruments
145 Clark Bldg., #5
Bedford, PA 15522
Toll Free 1-800-223-3341

"When you lose your vision, you lose contact with things. When you lose your hearing, you lose contact with people."
Helen Keller

Would you like to look inside your own ear canal . . .
. . .it would be interesting, wouldn't it?

It may help you to understand why you are experiencing problems such as:

- Hearing the sounds but not being able to UNDERSTAND the words,
- Asking others to repeat what they said or to speak louder,
- Feeling that others don't speak clearly or seem to mumble,
- Difficulty understanding telephone conversation.

Now you can discover what's happening inside your ear and it's FREE of cost or obligation.

With state-of-art ***Fiber Optic Otoscope*** technology, a licensed specialist will inspect the inside of your ear canal while you watch on a large computer monitor.

There is no pain involved with this procedure and you will see for yourself if your hearing problem is simply too much earwax.

In addition, you will receive a FREE HEARING TEST, to help identify damage to the hearing nerve located deep within the inner ear and to assist in amplification selection.

Your ***Fiber Optic Otoscope*** inspection may reveal common problems as:

- Ears plugged with earwax.
- A visible obstruction in the ear canal.
- A congenital or traumatic deformity of the ear.

This ***Fiber Optic Otoscope*** and ***Hearing Test*** are FREE for a limited time only.



See for yourself and be sure.

Sincerely,

Mark Jones

Mark Jones

PS: Appointment times are limited, so call today!

FILED NO CC
m/10:28 BH
JUN 17 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	CIVIL DIVISION - EQUITY
	NO. 01-1059-C.D.
PLAINTIFF	
v	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	
DEFENDANTS	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the of the Amended Petition for Contempt was forwarded on the 16th day of June, 2004, by U.S. mail, postage prepaid, to the following:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

David J. Hopkins, Esquire
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, Pennsylvania 15801

DATED: June 16, 2004

E. Barry Creany
Senior Deputy Attorney General

FILED

JUN 17 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED NOCC
m/10:28 BH
JUN 17 2004
William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
vs.	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANETTE MARKETING SPECIALISTS	:	

ORDER

AND NOW, this 18th day of June, 2004, it is the ORDER of the Court that hearing on Plaintiffs' Amended Petition for Contempt in the above matter has been scheduled for **Tuesday, July 27, 2004 at 9:00 A.M.**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA.

FILED

JUN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

BY THE COURT:

Paul E. Cherry

PAUL E. CHERRY
Judge

FILED 5 cc w/ service
memo to Atty Creany
0/10:54 BH
JUN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

FILED

JUN 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, the undersigned, hereby affirm that a certified copy of the Order of The Honorable Paul E. Cherry dated June 18, 2004, was served in accordance with the Pennsylvania Rules of Civil Procedure by depositing the same with the United States Postal Service, to be delivered by First Class mail, postage prepaid, to the following addressees:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
COLAVECCHI, RYAN & COLAVECCHI
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

David J. Hopkins, Esquire
Hopkins Heltzel, LLP
900 Beaver Drive
DuBois, Pennsylvania 15801

DATED: June 28, 2004

E. Barry Creany
Senior Deputy Attorney General

This statement is made subject to penalties of 18 Pa.C.S. §4904 relating to Unsworn Falsification to the Authorities.

FILED
m/12:26/BA no cc
JUN 29 2004
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
V.	:	NO. 2001-1059-CD
MARK E. JONES, al	:	

ORDER

AND NOW, this 29th day of July, 2004, it is the ORDER of this Court that continuation hearing with regard to Plaintiff's Petition for Contempt is hereby scheduled for Friday, September 17, 2004, at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED

JUL 29 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED
JUL 29 2004

ICC Attys: E. Barry Creany
F. Donaghue
J. DuBois
D. Hopkins
J. Ryan

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, acting by ATTORNEY GENERAL D. GENERAL MICHAEL FISHER	:	
VS.	:	NO. 01-1059-CD
MARK E. JONES, indiv. and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, Inc., and KERSTETTER and RICKY A. PAPE	:	

O R D E R

NOW, this 17th day of September, 2004, all testimony having been presented to the Court, it is the ORDER of this Court that counsel shall, if they so desire, order transcripts of all proceedings with said order to be made with the appropriate court reporter by no later than October 1, 2004. Counsel shall have no more than 30 days upon receipt of said transcripts to submit appropriate brief to the Court. The parties may, if they so desire, file a reply brief to opposing counsel's briefs within no more than 15 days thereafter.

BY THE COURT:

Paul E Cheney

Judge

FILED EGK
10/2:12 BK
SEP 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

2 CC Attys: Creany
Donaghue
DuBois
Hopkins
Ryan

FILED

SEP 27 2004

William A. Shaw
Prothonotary/Clerk of Courts

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	Type of Pleading: Petition to Withdraw as Counsel Filed on behalf of: David J. Hopkins, Petitioner HOPKINS HELTZEL LLP Counsel of Record for this party: DAVID J. HOPKINS, ESQUIRE Attorney at Law Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801 (814) 375-0300

FILED

NOV 02 2004
0/2:25
William A. Shaw
Prothonotary/Clerk of Courts
6 cent to Atty

3. Petitioner has represented Respondents in the above captioned lawsuit filed by the Attorney General of the Commonwealth of Pennsylvania. Petitioner has zealously represented Respondents in the above captioned matter, including four (4) days of hearings on the Commonwealth's Petition to Hold Respondents in Contempt.

4. Petitioner has invested many hours of time and effort in the above captioned matter.

5. Petitioner has not been paid for many months and Respondent's bill now exceeds $10,375.45.

6. Petitioner has two middle school children enrolled in the DuBois Area Catholic School system and cannot afford to continue to represent Respondent without payment.

7. Petitioner respectfully requests this Honorable Court grant Petitioner's request to withdraw from the above captioned matter.

WHEREFORE, Petitioner respectfully request this Honorable Court grant Petitioner's request to withdraw from the above captioned matter.

Respectfully submitted,

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801
(814) 375-0300

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Petition to Withdraw, filed on behalf of David J. Hopkins, Esquire, was forwarded on the 2nd day of November, 2004, and by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

J. G. Pannette Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Respectfully submitted,

David J. Hopkins, Esquire

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

FILED
cc/ 08:54 BA 2 cc to Atty.
NOV 04 2004
William A. Shaw
Prothonotary

RULE RETURNABLE

NOW, this 3rd day of November, 2004, upon consideration of the attached Petition, a Rule is hereby issued upon Defendants, Joseph G. Pannette, J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., to Show Cause why the Petition to Withdraw as Counsel should not be granted. Rule Returnable the 23 day of November, 2004, for filing written response.

NOTICE

A PETITION OR MOTION HAS BEEN FILED AGAINST YOU IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PETITION BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE MATTER SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND AN ORDER MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR RELIEF REQUESTED BY THE PETITIONER OR MOVANT. YOU MAY LOSE RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

BY THE COURT,

Paul E Cherry
JUDGE

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **REPLY TO PETITION TO WITHDRAW AS COUNSEL**

FILED

NOV 12 2004

William A. Shaw
Prothonotary/Clerk of Courts

COUNSEL FOR PLAINTIFF	COUNSEL FOR DEFENDANTS
FRANK T. DONAGHUE CHIEF DEPUTY ATTORNEY GENERAL ATTORNEY I.D. NO. 72561 OFFICE OF ATTORNEY GENERAL ADMINISTRATIVE OFFICE 14TH FLOOR STRAWBERRY SQUARE HARRISBURG, PA 17120 (717) 787-9707	MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS JEFFREY S. DuBOIS, ESQUIRE ATTORNEY I.D. NO. 62074 190 W. PARK AVENUE, SUITE #5 DUBOIS, PA 15801 (814) 375-5598
E. BARRY CREANY SENIOR DEPUTY ATTORNEY GENERAL ATTORNEY I.D. NO. 39543 OFFICE OF ATTORNEY GENERAL BUREAU OF CONSUMER PROTECTION 171 LOVELL AVENUE, SUITE 202 EBENSBURG, PA 15931 (814) 471-1831	JOSEPH G. PANNETTE and MARKETING SPECIALISTS, INC. DAVID J. HOPKINS, ESQUIRE HOPKINS HELTZEL LLP ATTORNEY I.D. NO. 42519 900 BEAVER DRIVE DUBOIS, PA 15801 (814) 375-0300
	ROBERT W. FALLS, RICHARD L. KERSTETTER and RICKY A. PAPE JOHN R. RYAN, ESQUIRE BELIN & KUBISTA ATTORNEY I.D. NO. 38739 15 NORTH FRONT STREET P.O. BOX 1 CLEARFIELD, PA 16830 (814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

REPLY TO PETITION TO WITHDRAW AS COUNSEL

AND NOW comes the Commonwealth of Pennsylvania by Attorney General Gerald J. Pappert, through the Pennsylvania Bureau of Consumer Protection and files this Reply to Petition to Withdraw as Counsel filed by David J. Hopkins, Esquire, and sets forth the following:

1. The Commonwealth is the Plaintiff in this matter and has actively litigated this case since the Complaint in Equity was filed in July 2001.
2. The Commonwealth is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 2, 4, 5 and 6 of the Petition to Withdraw as Counsel and, therefore, deny the same.
3. As of the date of this reply, the Commonwealth is awaiting receipt of transcripts for the hearings on the Commonwealth's Petition for Contempt that were conducted on February 3, 2004, and May 6, 2004. Upon receipt of the same, the Commonwealth will be submitting a brief pursuant to this Honorable Court's Order of September 17, 2004.

4. The Commonwealth is informed, believes and, therefore, avers that the public may suffer irreparable harm to the extent the granting of the Petition to Withdraw as Counsel filed by David J. Hopkins, Esquire, results in any delay in the disposition of the Petition for Contempt pending against Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc.

WHEREFORE, the Commonwealth of Pennsylvania respectfully requests this Honorable Court to deny the Petition to Withdraw as Counsel filed by David J. Hopkins, Esquire, or, in the alternative, condition any such granting of the Petition to Withdraw as Counsel in such a manner that it will not serve to delay disposition of the Petition for Contempt that will soon be before this Honorable Court for a decision.

Date: November 10, 2004

Respectfully submitted,

GERALD J. PAPPERT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copies of the foregoing Reply to Petition to Withdraw as Counsel was forwarded on the 10th day of November, 2004, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ORDER

AND NOW this 7th day of December, 2004, a hearing on the Petition of David J. Hopkins, Esquire, to withdraw as attorney for Joseph G. Pannette, J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., shall be held in Courtroom 2 of the Clearfield County Courthouse, 230 E. Market Street, Clearfield, Pennsylvania on January 3, 2005 at 10:00 AM.

BY THE COURT,

Paul E. Cherry

Honorable Paul E. Cherry

FILED
0 8:49 bb ICC to Atty Hopkins
DEC 09 2004

William A. Shaw
Prothonotary

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

FILED (1cc Atty Hopkins)
01:28 BL
JAN 05 2005
William A. Shaw
Prothonotary/Clerk of Courts

ORDER

AND NOW this 4th day of January, 2005, a hearing on the Petition of David J. Hopkins, Esquire, to withdraw as attorney for Joseph G. Pannette, J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., having been scheduled for January 3, 2005, and a hearing held; it is the ORDER of this Court that this matter be rescheduled due to lack of service of the Order dated December 7, 2004 on all parties of record; Said hearing is rescheduled for the 4 day of March, 2005, at 10:30 AM. in Courtroom 2 of the Clearfield County Courthouse, 230 E. Market Street, Clearfield, Pennsylvania.

BY THE COURT,

Paul E. Cherry

Honorable Paul E. Cherry

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0306 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order dated January 4, 2005 rescheduling a hearing on a Petition to Withdraw as Counsel, was forwarded on the 6th day of January, 2005, and by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

FILED NO
cc
01:48 BY
JAN 10 2005
William A. Shaw
Prothonotary/Clerk of Courts

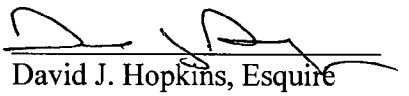
John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

J. G. Pannette Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Respectfully submitted,



David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **STATEMENT REGARDING SUBSTITUTION OF SUCCESSOR PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
14TH FLOOR STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS

JEFFREY S. DuBOIS, ESQUIRE
ATTORNEY I.D. NO. 62074
190 W. PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-5598

JOSEPH G. PANNETTE and
MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS, ESQUIRE
HOPKINS HELTZEL LLP
ATTORNEY I.D. NO. 42519
900 BEAVER DRIVE
DUBOIS, PA 15801
(814) 375-0300

ROBERT W. FALLS, RICHARD L.
KERSTETTER and RICKY A. PAPE

JOHN R. RYAN, ESQUIRE
BELIN & KUBISTA
ATTORNEY I.D. NO. 38739
15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

FILED

M 10.27 BR NO CC

JAN 28 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

STATEMENT REGARDING SUBSTITUTION OF SUCCESSOR PURSUANT TO PENNSYLVANIA RULE OF CIVIL PROCEDURE 2352(a)

AND NOW, this 27th day of January, 2005, comes the Commonwealth of Pennsylvania, by Attorney General Thomas W. Corbett, Jr., through the Bureau of Consumer Protection and files this statement of material facts regarding the substitution of Attorney General Thomas W. Corbett, Jr. in this action and in support thereof states the following:

1. In the General Election conducted on November 2, 2004, Thomas W. Corbett, Jr., was elected to serve as the Attorney General of the Commonwealth of Pennsylvania. Returns of said election were certified as official on January 5, 2005.

2. On January 18, 2005, Attorney General Thomas W. Corbett, Jr., took the oath of office thereby succeeding prior elected and appointed Attorneys General.

3. The Unfair Trade Practices and Consumer Protection Law authorizes the Attorney General to bring actions in the name of the Commonwealth against any person to restrain by temporary or permanent injunction the use of any methods, acts or practices declared unlawful by §201-3 of said Act.

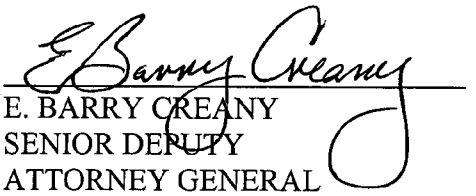
4. The above-captioned action was initiated pursuant to the powers granted the Attorney General by §201-4 of the Consumer Protection Law at a time when Attorney General Corbett's predecessor held office as the Pennsylvania Attorney General.

5. Attorney General Thomas W. Corbett, Jr., is currently representing the Commonwealth of Pennsylvania in this action and, therefore, by operation of law should be substituted and identified in the caption of this case as the party representing the Commonwealth in this action.

RESPECTFULLY SUBMITTED,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL



E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

VERIFICATION

I, E. Barry Creany, state that I am a Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection and that I am authorized to make this Verification and that the statements made in the foregoing Statement Regarding Substitution of Successor Pursuant to Pennsylvania Rule of Civil Procedure 2352(a) are true and correct to the best of my knowledge, information and belief. I understand that the statements made therein are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Dated: January 27, 2005

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Statement of Substitution being filed on behalf of the Plaintiff was forwarded on the 27th day of January, 2005, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**PETITION FOR CEASE AND DESIST ORDER**
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	Filed on Behalf of: DEFENDANT – MARK E. JONES, INDIVIDUALLY
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED
FEB 25 2005
01:25 I
William A. Shaw
Prothonotary/Clerk of Courts
3 Cert to Atty

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ORDER

AND NOW, this 25th day of February, 2005, in consideration of Defendants Petition for Cease and Desist Order,

IT IS HEREBY ORDERED AND DECREED that a Rule to Show Cause and Hearing be scheduled for the 12 day of April, 2005, at 1:30 o'clock P.M., in Courtroom No. 2, Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Paul E. Cherry
Judge

FILED

FEB 28 2005 (GK)
01:55/lw
William A. Shaw
Prothonotary/Clerk of Courts
1 CERT TO ATTY

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

CEASE AND DESIST ORDER

AND NOW, comes the Defendant, Mark E. Jones, individually, by and through his attorney, Jeffrey S. DuBois, Esquire, who files the following Petition for Cease and Desist and in support thereof avers the following:

1. Mark Jones is the Defendant in the above captioned matter filed by the Attorney General's Office.

2. As is set forth in the above captioned case, the name of the company involved in this particular case is M.E. Jones Hearing Instruments.

3. Said name comes from the name of the Defendant, Mark E. Jones.

4. This is simply the name of the company and is not a Corporation organized under the laws of Pennsylvania.

5. As a consequence, it is not a separate entity, but is a company using the name of Mark E. Jones.

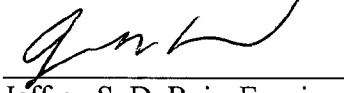
6. Because of the action filed by the Attorney General's Office, as well as the action filed by the Department of Health, Defendant Mark E. Jones does not wish his name to be used in this company anymore, or the business name to continue.

7. Because of the fact it is his name, under the laws of the Commonwealth, it is his sole right and possession to do with it as he pleases.

8. Therefore, Mark E. Jones wishes and demands that this business be terminated under his name and that no further business should be conducted by any person under the name of M. E. Jones Hearing Instruments.

WHEREFORE, Defendant respectfully requests this Honorable Court to issue an Order that all business under M.E. Jones Hearing Instruments cease and desist from this date forward.

Respectfully submitted,



Jeffrey S. DuBois, Esquire
Attorney for Defendant,
Mark E. Jones

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 25th day of February, 2005, I served a true and correct copy of the within Petition for Cease and Desist Order by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

Jeffrey S. DuBois

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	CIVIL DIVISION - EQUITY
vs.	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	
	Type of Pleading: Motion for Extension of Time to File Brief
	Filed on behalf of: Petitioner, David J. Hopkins, Esquire
	Counsel of Record for this party:
	DAVID J. HOPKINS, ESQUIRE Attorney at Law
	Supreme Court No. 42519 900 Beaver Drive DuBois, Pennsylvania 15801
	(814) 375-0300

FILED

FEB 25 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

MOTION FOR EXTENSION OF TIME TO FILE BRIEF

AND NOW, comes Petitioner, David J. Hopkins and Hopkins Heltzel LLP, and hereby moves this Court to grant an extension of time for filing of its Brief and in support thereof represents:

1. Your Petitioner is David J. Hopkins, Esquire, individually and as a partner in Hopkins Heltzel LLP, and who maintains a principal business address at 900 Beaver Drive, DuBois, Pennsylvania 15801.

2. Petitioner has represented Defendants, Joseph G. Pannette, individually, and d/b/a J. G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc., in the above captioned lawsuit filed by the Attorney General of the Commonwealth of Pennsylvania. Petitioner has zealously represented Defendants in the above captioned matter, including four (4) days of hearings on the Commonwealth's Petition to Hold Respondents in Contempt.

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

J. G. Pannette Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Respectfully submitted,

David J. Hopkins, Esquire

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ORDER

AND NOW, this matter having come before the Court, and for good cause shown; it is on this 25th day of February, 2005, ORDERED and ADJUDGED that Briefs shall be due on or before April 30, 2005.

BY THE COURT,

Paul E. Cherry
JUDGE

FILED

FEB 28 2005 (GK)
01:11:55
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Atty

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **REPLY TO MOTION FOR EXTENSION OF TIME TO FILE BRIEF**

FILED No cc
m/4:00/bl
MAR 02 2005
William A. Shaw
Prothonotary/Clerk of Courts

COUNSEL FOR PLAINTIFF

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BUREAU OF CONSUMER PROTECTION
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EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS

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190 W. PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-5598

JOSEPH G. PANNETTE and MARKETING SPECIALISTS, INC.

DAVID J. HOPKINS, ESQUIRE
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ROBERT W. FALLS, RICHARD L. KERSTETTER and RICKY A. PAPE

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15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

REPLY TO MOTION FOR EXTENSION OF TIME TO FILE BRIEF

AND NOW, comes the Respondent, the Commonwealth of Pennsylvania, by Attorney General Thomas W. Corbett, Jr., through the Bureau of Consumer Protection (hereinafter "Commonwealth") and files this reply to the motion of Petitioners, David J. Hopkins and Hopkins Heltzel LLP, requesting an extension of time to file his Brief and in support thereof sets forth the following:

1. The allegations contained in paragraph 1 of the Petitioner's motion require no response.

2. The allegations contained in paragraph 2 of the Petitioner's motion require no response.

3. On September 17, 2004, this Honorable Court entered an Order providing counsel with thirty (30) days from the date of their receipt of transcripts of the hearings on the Petition for Contempt within which to file briefs. Further, the Court provided counsel with the opportunity to file replied briefs within fifteen (15) days after the filing of briefs.

4. The allegations contained in paragraph 4 of the Petitioner's motion require no response.

5. Admitted.

6. Commonwealth objects to providing Defendant Joseph G. Pannette and Defendant Marketing Specialists, Inc. any additional time to complete a brief and the Commonwealth opposes any such extension. Defendant Joseph G. Pannette and Defendant Marketing Specialists, Inc. have been on notice since November 2, 2004, that Petitioner Hopkins is requesting withdrawal as counsel and, therefore, said defendants have had ample time within which to retain new counsel to defend this action.

7. The allegations contained in paragraph 7 of Petitioner's motion are admitted in part and denied in part. It is admitted that all four (4) transcripts of the testimony in the contempt proceedings were not completely transcribed until February 16, 2005, despite the fact that the Commonwealth ordered said transcripts immediately after the September 17, 2004, hearing. The Commonwealth maintains that further delay in this matter is unwarranted and would prejudice both the Commonwealth as well as Pennsylvania consumers. Further, the Commonwealth maintains that any further delay in this matter is not in the public's interest because of the likelihood of continued violations of the Consumer Protection Law and the Hearing Aid Sales Registration Law in violation of this Court's Order of July 2001. Evidence of the continued pattern of violations of the preliminary injunction by Defendants, Pannette, Jones and Marketing Specialists, Inc. are evidenced by the fact that, since August 26, 2004, the Office of Attorney General, Bureau of Consumer Protection has received ten (10) complaints from consumers who have been harmed by continued unfair and deceptive trade practices being used by the defendants. True and correct copies of the aforementioned consumer complaints are attached hereto, and labeled Group Exhibit "A". Petitioner and his clients will have until March 18, 2005, (thirty (30) days from February 16, 2005) within which to file a brief and will have until April 4, 2005, to file a reply brief. Petitioner's clients have been aware of his intention to withdraw as counsel for four (4) months and, therefore, have had ample time within which to secure counsel to represent them in this matter.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to deny Petitioner's request for an extension of time to file a brief on behalf of Defendant Joseph G. Pannette and Defendant Marketing Specialist, Inc.

Date: March 1, 2005

RESPECTFULLY SUBMITTED,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Reply to Motion for Extension of Time to File Brief being filed on behalf of the Plaintiff was forwarded on the 1st day of March, 2005, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
900 Beaver Drive
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

COUNTY OF CAMBRIA)
)
) SS:
COMMONWEALTH OF PENNSYLVANIA)
)

AFFIDAVIT IN SUPPORT OF REPLY TO MOTION FOR EXTENSION OF TIME TO FILE BRIEF

I, Thomas W. Creehan, make this statement upon personal knowledge and do hereby state that the ten (10) consumer complaints attached to this Affidavit were not addressed in the contempt proceedings in the Commonwealth of Pennsylvania v. Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, *et al.*, No. 01-1059 C.D., which were conducted in the Clearfield County Court of Common Pleas. Upon receipt from the consumers, the Bureau of Consumer Protection provided copies of all of these complaints had previously been provided to Attorneys David J. Hopkins, and Jeffrey S. DuBois, counsel for defendants. All but one of these complaints were received after September 17, 2004. Several of these complaints involve transactions between consumers and M.E. Jones Hearing Instruments occurring on or after September 17, 2004. Neither the defendants nor their counsel have responded to the Bureau of Consumer Protection on these complaints.

I make this statement subject to the penalties of 18 Pa.C.S. §4904.

Dated: March 1, 2005

Thomas W. Creehan
Agent Supervisor

Group Exhibit "A"

M.E. JONES HEARING INSTRUMENTS

CONSUMER	FILE NO.	DATE OF TRANSACTION	DATE OF COMPLAINT WITH BCP
Ball, Harold	F04-3877	5/11/2004	12/7/2004
Best, Eileen E.	F04-2786	10/14/2003	8/26/2004
Diller, Robert L.	F04-3536	12/8/2003	11/10/2004
Duda, Stanley P.	F05-0366	10/14/2004	2/8/2005
Fedeli, Sr., Philip A.	F05-0380	9/11/2004	2/9/2005
Garman, Doris	F04-3049	6/3/2004	9/24/2004
Greenawalt, James N.	F04-4094	6/28/2004	12/30/2004
Halaszynski, Eleanor	F04-3408	6/15/2004	11/1/2004
Leete, Tom	F05-0338	11/28/2003	2/4/2005
Smith, Thomas E.	F04-3118	5/14/2003	9/29/2004

F04-3877TBS

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

GERALD J. PAPPERT
ATTORNEY GENERAL

www.attorneygeneral.gov

Office Use Only Investigator: AT Code 1 303 Code 2 900 808

Complaint # C-007205:2004

Received Office of Attorney General NOV 22 2004

Bureau of Consumer Protection
Manor Building, 6th Floor
564 Forbes Avenue
Pittsburgh, PA 15219
(412) 565-5135

HAROLD BALL
YOUR NAME

2999 CLARKSBURG RD
ADDRESS

CLARKSBURG | PA | 15725 | INDIANA
CITY | STATE | ZIP CODE | COUNTY

724-639-9585
HOME PHONE NUMBER | BEST NUMBER TO CALL DURING THE DAY

M.E. JONES HEARING INSTURMENTS
NAME OF BUSINESS COMPLAINT IS AGAINST

JO ELLEN PAPE AND JERRY PANNET
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 NORTH MAIN STREET PO BOX 684
ADDRESS

DUBOIS | PA | 157801 | CLEARFIELD
CITY | STATE | ZIP CODE | COUNTY

814-371-6401 OR 1-800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
HEARING AIDS	5-20-04	$5100.00
SER No.: L04107323		
R04107314		

To what other agencies have you complained? ME JONES OFFICE ONLY

What action was taken? _____

Have you retained an attorney? ○ Yes ✓ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ○ Yes ✓ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ✓ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ✓ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

BATTERIS WERE LASTING BETWEEN 16 & 18 HRS. . RICK DAVIS TOOK THE HEARING AIDS TO CHECK THEM OUT. THEY WERE RETURNED TO ME AFTER A WEEK & A HALF. I WAS TO AGAIN TRY THEM. THE BATTERIES THEN LASTED FOR APPROXIMATELY 5 4 HRS. I THEN RETURNED THE HEAING AIDS FOR CREDIT. BY REGISTED MAIL.

HADN'T HEARD FROM THEM AFTER A MONTH AND A HALF, I'S KEEP CALLING BUT ALL I COULD TALK TO WAS THE OPERATOR. I TALKED TO JOELLEN PAPE. SHE COULDN'T REEMBURSE ME & REFERED ME TO MR JERRY PANET.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

GIVE MY MONEY BACK.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

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I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

JERRY DID FINALLY CALL ME ON SEPT. 16th. HE SAID HE WOULD LOOK INTO THE CAUSE OF THE BATTERY'S SHORT LIFE. JERRY CALLED ON THE 25th OF SEPT. HE TOLD ME THE PROBLEM WAS THE WRONG TYPE BATTERIES WERE USED CAUSING BATTERY DRAIN.

I HAVE A RECORD OF ALL THE CALLS THAT I HAD MADE BUT WAS TOLD THAT NO ONE WAS AROUND BUT THE OPERATOR.

IT SEEMS LIKE NO ONE WANTS TO TALK ABOUT A REFUND.

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Harold Ball AGE 75

ADDRESS 2969 Clarkburg PHONE (724) 639-9585

CITY Clarksburg STATE PA ZIP 15725

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	150.00	CANCELLATION $	150.00
FITTING/DISPENSING $	200.00	FITTING/DISPENSING $	200.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	385.00	TOTAL $	385.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

x Harold Ball 5-11-04
CUSTOMER'S SIGNATURE DATE

RW Jones 5-11-04
REGISTRANT'S SIGNATURE DATE

M.E. JONES HEARING INSTURMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801 1894
Phone: 814-371-6401 or 1-800-223-3341

Date: 5-11-04

Name: Howard Ford Age: 75

Address: 2999 Clarkburg Rd Phone: (724) 639-9585

City: Clarksburg State: PA

Zip Code: 15725 County: Indiana New X Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Custom Earmold	Receiver Cord	Battery Size	Access
MSI	dia	RT.				312	Mon/Vol
	mini	(LF.)					

Full Hearing Aid Price ..... $ 1600.00

Price includes impression, fitting & dispensing fee ..... Coupon - 500.00

Subtotal ..... $ 1100.00

Down Payment 4435 6500 0002 1457 ..... $ 1100.00

Balance Due ..... 0/06 ..... $ 0

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION , DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION( ).

YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 11th Day of May Year 2004 Purchaser: X Howard E. Ford

in presence of:

Countersigned: RW Faus Co-purchaser: _____

Consultant and Registration Number: RW FAUS 2-65

7-8-04

M.E. JONES
HEARING AID
101 N. MAIN STREET
PO BOX 686
DUBOIS, PA. 15801-4894

FROM: HAROLD BALL
2999 CLARKSBURG RD.
CLARKSBURG, PA 15725-7908

TO WHOM IT MAY CONCERN.

RETURNING DIG. CANAL AIDS
SER NO. L04107313
R04107314

HAVE HAD BATTERY TROUBLE
FROM THE VERY BEGINNIG.
BATTERYS LASTED APPROX.
14 TO 18 HRS.
BOTH AIDS WERE TAKEN TO
DUBOIS FOR ABOUT A WEEK AND
A HALF. THEN RETURNED TO ME BY
MAIL. SINCE RETURNED THE BATTERYS
LASTED ABOUT 54 HRS. THIS IS NOT
ACCEPTABLE.

THANK YOU,

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

HEARING AID INSTRU.
101 N. MAIN ST
DUBOIS PA 15801-1894
ATTN RICK DAVIS

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Nancy North ☒ Agent ☐ Addressee

B. Received by (Printed Name) NANCY L. NORTH
C. Date of Delivery 7/10/04

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☒ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

Article Number
(Transfer from service label) RB073948920US

Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

www.attorneygeneral.gov

RECEIVED
AUG 25 2004
Bureau of Consumer Protection
Office of Attorney General

171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 471-1831

Office Use Only Investigator: Code 1 303 Code 2 815 802
Complaint # F04-2786 TBS

Eileen E Best
YOUR NAME

501 Shenango Stop Rd
ADDRESS

New Castle PA 16101 Lawrence
CITY STATE ZIP CODE COUNTY

724-652-2715 724-652-2715
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

M.E. Jones
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N Main St. P.O. Box 686
ADDRESS

Dubois PA 15801
CITY STATE ZIP CODE COUNTY

814-371-6401 OR 1-800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids	orderd 10/14/03 Received them on 11/15/03	3,000.00

To what other agencies have you complained? Better Buisness Bureau of Western Penna.

What action was taken? None

Have you retained an attorney? o Yes o No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ✓ Yes o No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made? 8/19/2004

District Court - 53-3-03 1791 New Butler Rd - New Castle Pa.

M.E. Jones Never Showed up.

Your Age:
- 18-29
- 30-44
- 45-59
- ✓ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ✓ Internet
- ☐ Other - Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

I ordered hearing Aids from M.E. Jones - was told I could return them if I didn't want them. I called M.E. Jones on 12/8/2003 - the receptionist - Joellen) said No one was in the office but she would tell them & they would call me back - Never did call me - Called Again on 12/9/2003 - 12/22/2003 - went thru the same routine - No one in the office she said - I had a heart attack 2 days after Christmas - After getting out of the hospital I called again on 1/8/2004 - Went thru the same excuse - no one in office - Called Again on 2/25/2004. Spoke with JERRY - (Son-in-law of M.E Jones) He said he would check my file & get back to me. - Never did. Called Again Spoke Joellen She said to send the hearing Aids back to them by Registered mail - I did - Still have not got my money or heard from M E Jones

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I would like to get the money That is due me plus court cost

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Eileen E Best
YOUR SIGNATURE

August 23- 2004
DATE

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: LAWRENCE

Mag. Dist. No.: 53-3-03
DJ Name: Hon. DAVID B. RISHEL
Address: 2797 NEW BUTLER ROAD
NEW CASTLE, PA
Telephone: (724) 924-9870 16101-0000

NOTICE OF JUDGMENT/TRANSCRIPT CIVIL CASE

PLAINTIFF: NAME and ADDRESS
BEST, EILEEN E.
501 SHENANGO STOP ROAD
NEW CASTLE, PA 16101

VS.

DEFENDANT: NAME and ADDRESS
MARK JONES/JONES HEARING INSTRUMENT
101 N. MAIN ST.
P.O. BOX 686
DUBOIS, PA 15801

EILEEN E. BEST
501 SHENANGO STOP ROAD
NEW CASTLE, PA 16101

Docket No.: CV-0000080-04
Date Filed: 7/14/04

THIS IS TO NOTIFY YOU THAT:

Judgment: DEFAULT JUDGMENT PLTF

[X] Judgment was entered for: (Name) BESTEILEEN

[X] Judgment was entered against: (Name) MARK JONES/JONES HEARING INSTRUMENT

in the amount of $ 2,520.00 on: (Date of Judgment) 8/19/04

[ ] Defendants are jointly and severally liable. (Date & Time) _____

[ ] Damages will be assessed on:

[ ] This case dismissed without prejudice.

[ ] Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 $ _____

[ ] Portion of Judgment for physical damages arising out of residential lease $ _____

Amount of Judgment	$ 2,430.00
Judgment Costs	$ 90.00
Interest on Judgment	$ .00
Attorney Fees	$ .00
Total	$ 2,520.00
Post Judgment Credits	$
Post Judgment Costs	$
Certified Judgment Total	$

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE .

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

8/19/04 Date David Rishel, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____ Date _____, District Justice

My commission expires first Monday of January, 2006 . SEAL

AOPC 315-03

DATE PRINTED: 8/19/04 9:33:14 AM

NWEALTH OF PENNSYLVANIA
TY OF: LAWRENCE

CIVIL COMPLAINT

Dist. No.: 53-3-03

DJ Name: Hon.
DAVID B. RISHEL
Address: 2797 NEW BUTLER ROAD
NEW CASTLE, PA 16101-0000
Telephone: (724) 924-9870

PLAINTIFF: NAME and ADDRESS
724-652-2715
Eileen E Best
501 Shenango Stop Rd
New Castle - PA 16101

VS.

DEFENDANT: NAME and ADDRESS
M.E. Jones Hearing Instruments
MARK E Jones
Lawrence Park Z 553
101 N Main St - Pgh 86
DuBois - PA 15 801

Docket No.: CV 30 04
Date Filed: 7/14/04

	AMOUNT	DATE PAID
FILING COSTS	$ 76.00	7/14/04
POSTAGE	$ 14.00	7/14/04
SERVICE COSTS	$	/ /
CONSTABLE ED.	$	/ /
TOTAL	$	/ /

Pa.R.C.P.D.J. No. 206 sets forth those costs recoverable by the prevailing party.

TO THE DEFENDANT: The above named plaintiff(s) asks judgment against you for $ 2430.00 together with costs upon the following claim (Civil fines must include citation of the statute or ordinance violated):

Purchased hearing aids for 3,000.00 Dollars and I Returned them and never received refund check.

I, Eileen E Best verify that the facts set forth in this complaint are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of Section 4904 of the Crimes Code (18 PA. C.S. § 4904) related to unsworn falsification to authorities.

Eileen E Best
(Signature of Plaintiff or Authorized Agent)

Plaintiff's Attorney: _____ Address: _____

Telephone: _____

IF YOU INTEND TO ENTER A DEFENSE TO THIS COMPLAINT, YOU SHOULD NOTIFY THIS OFFICE IMMEDIATELY AT THE ABOVE TELEPHONE NUMBER. YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

AOPC 308A-03

Better
Business
Bureau ®
of
Western Pennsylvania, Inc.

May 6, 2004

EILEEN BEST
501 SHENANGO STOP RD
NEW CASTLE PA 16101

Dear EILEEN:

One of the most widely recognized services of the Better Business Bureau is the processing of complaints. In accepting complaints, the Better Business Bureau adheres to the philosphy that there are two sides to every issue. The Bureau does not prejudge the validity of a claim.

The most expedient and efficient way to file a claim is to visit our web site at: www.westernpennsylvania.bbb.org and click onto file a complaint. When the form is completed it is automatically sent to the local BBB for processing.

If you do not have Internet access, enclosed is a Better Business Bureau complaint form you can complete and return to the Bureau for processing. Be certain to include the complete name and address of the business, your complete name, address and telephone number. Please type or print legibly so we may better serve you.

In the body of the form, briefly state the nature of your claim and the resolution you are seeking. Remember to keep your comments brief and confined to the space provided. Upon completion, return the completed form to the BETTER BUSINESS BUREAU OF WESTERN PA, 300 SIXTH AVENUE, SUITE 100-UL, PITTSBURGH, PA 15222 for processing. Or you can fax it to 412/456-2739 or email info@pittsburgh.bbb.org.

It is the Bureau's intention to reduce all written complaints to a uniform format for processing.

Thank you for using Bureau services.

Better Business Bureau
Complaint Processing

The BBB is a private non-profit organization, not a government agency. We work with consumers and businesses to help them settle disputes, but have no enforcement authority and cannot force a settlement.

DATE: 5-18-2004

Dear Consumer:

We have received your complaint. The Bureau will begin processing your claim by providing the business with a copy of your complaint.

The BBB will contact you when the company responds to your complaint. If we do not receive a written reply, we will contact you with the next step in our dispute resolution process.

Complaint processing can take from six to eight weeks. You do not need to reach us during this process unless the company contacts you directly to settle the dispute.

Thank you for contacting the Better Business Bureau.

PC1-95

Better Business Bureau® of Western Pennsylvania, Inc.

COMPLAINT FORM

Instructions: Complete as much of this form as possible. Return it to the BBB at the above address, along with copies of relevant documents such as contracts, receipts, warranties or cancelled checks.

Company Name: M & Jones Hearing Instruments

Company Address: 101 N MAIN St

Company City/ST/ZIP: DuBois - PA 15801

Company Phone: 1-800-223-3341 FAX: _____ Company Email: _____

Customer Name: Eileen E Best

Customer Address: 501 Shenango Stop Rd

Customer City/ST/ZIP: New Castle - PA 16101

Customer Daytime Phone: 724-652-2715 Customer Email: - o -
WORK # 724-758-4900

Order/Contract/Account #: _____ Date Problem Occurred: 12-8-2003 Amount Involved: $ 2430.00

Date(s) You Complained to Company: 12-8-2003 To Whom: _____

Nature of complaint:

ORDERED HEARING AIDS ON 10-14-03, HAD TO CALL TO GET THEM, RECEIVED EARING AIDS ON 11-15-03, CALLED CO. ON 12-8-03 TOLD THEM I COULD NOT USE HEM, GIVE ME TERRIBLE HEADACHE, WANTED TO SEND THEM BACK AND TO RETURN MONEY. ALLED AGAIN ON 12-9-03, SPOKE WITH JO ELLEN, SHE WAS TO TELL THEM SINCE I OULD NOT TALK TO ANYONE (NO ONE IN) CALLED AGAIN 12-22-03, NEVER CALLED BACK D HEART ATTACK ON 12-27-03, AFTER I GOT OUT OF HOSPITAL, CALLED AGAIN SPOKE WITH JO ELLEN SAID TO SEND HEARING AID TO THEM. I DID AND GOT A SIGNED RECEIPT, AND STILL HAVE NOT HEARD FROM THEM,

What settlement would you consider fair? To Receive The Amount owed me - $2430.00

We are on a low income & can't AFFORD to lose The money.

Signed: Eileen E Best Date: May 8, 2004

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 10-14-05

Name: [illegible] TEST Age: 67 1-24-38

Address: 501 [illegible] STOP KD Phone: (724) 652-2715

City: NEW CASTLE State: PA

Zip Code: 16101 County: LAWRENCE New X Used ____ Reconditioned ____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
M61	CIC	RT.	120		
	CIC	LF.	120		

Full Hearing Aid Price 4600.00

Includes Impression Fee 70.00 Fitting & Dispensing Fee 50.00

..... NO 8 Pairs - 1100.00

Subtotal 3500.00

Down Payment 5490 9948 4623 0297 01/06 - 800.00

Balance Due To Be PAID BY SEC. BLUE 1867-1729 500.00

REF. 05856550

1800-755-2583

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

~~☐ **IN THE HOME FITTINGS -- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.**~~

This 14 Day of OCT year 2005 Purchaser: ____

In presence of: ____

Countersigned: [signature] Co-purchaser: ____

Consultant and Registration Number: LOW V. KUICKANICH 2553

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME EILEEN BEST AGE 67

ADDRESS 501 STEWARD STOP RD PHONE (724) 652-2715

CITY NEW CASTLE STATE PA ZIP 16101

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	100.00
FITTING/DISPENSING $	150.00	FITTING/DISPENSING $	150.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	285.00	TOTAL $	285.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X _____ 10-14-08

CUSTOMER'S SIGNATURE DATE

_____ 2553 10-14-08

REGISTRANT'S SIGNATURE DATE

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: LAWRENCE

Mag. Dist. No.: 53-3-03
DJ Name: Hon. DAVID B. RISHEL
Address: 2797 NEW BUTLER ROAD
NEW CASTLE, PA
Telephone: (724) 924-9870 16101-0000

CIVIL ACTION HEARING NOTICE

PLAINTIFF: NAME and ADDRESS
BEST, EILEEN E.
501 SHENANGO STOP ROAD
NEW CASTLE, PA 16101

VS.

DEFENDANT: NAME and ADDRESS
MARK JONES/JONES HEARING INSTRUMENT
101 N. MAIN ST.
P.O. BOX 686
DUBOIS, PA 15801

EILEEN E. BEST
501 SHENANGO STOP ROAD
NEW CASTLE, PA 16101

Docket No.: CV-0000080-04
Date Filed: 7/14/04

A civil complaint has been filed against you in the above captioned case. A hearing has been set in this matter for:

Date:	8/19/04	Place:	DISTRICT COURT 53-3-03 2797 NEW BUTLER ROAD NEW CASTLE, PA 16101-0000 724-924-9870
Time:	9:00 AM		

NOTICE TO DEFENDANT

If you intend to enter a defense to this complaint, you should so notify this office immediately at the above telephone number.

YOU MUST APPEAR AT THE HEARING AND PRESENT YOUR DEFENSE. UNLESS YOU DO, JUDGMENT MAY BE ENTERED AGAINST YOU BY DEFAULT.

If you have a claim against the plaintiff which is within district justice jurisdiction and which you intend to assert at the hearing, you must file it on a complaint form at this office at least five days before the date set for the hearing.

Pursuant to PA.R.CP.D.J. No. 342(B)(2), no claim by the defendant will be permitted in a supplementary action filed for failure of judgment creditor to enter satisfaction.

NOTICE TO PLAINTIFF

If the defendant enters a Notice of Intent to Defend, you will be notified of the date and time of the scheduled hearing and must appear.

If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

DATE PRINTED: 7/15/04 3:10:59 PM

/WEALTH OF PENNSYLVANIA
Y OF: LAWRENCE

RECEIPT OF PAYMENT

ist. No.:
53-3-03

J Name: Hon.
DAVID B. RISHEL
Address: 2797 NEW BUTLER ROAD
NEW CASTLE, PA

Telephone: (724) 924-9870 16101-0000

REMITTER :

EILEEN E. BEST
501 SHENANGO STOP ROAD
NEW CASTLE, PA 16101

Docket No.: CV-0000080-04
Date Filed: 7/15/04

RECEIPT NO: 043901 **DATE:** 7/15/04 **PAGE:** 1

SOURCE: PAID AT WINDOW
METHOD: PAID BY CHECK
CHECK#: 03263

MANUAL RECEIPT#:
CITATION#:
COSTS INCLUDED ON:

AMOUNT RECEIVED:	$	90.00
AMOUNT APPLIED:	$	90.00
COLLATERAL APPLIED:	$	.00
CHANGE:	$	.00

NEXT PAYMENT AMOUNT:
NEXT PAYMENT DATE:
NEXT PMT TYPE:

PAYMENT DESCRIPTION	BALANCE FWD	AMT APPLIED	CURRENT BAL
JUDICIAL COMPUTER PROJECT	8.50	8.50-	.00
ACCESS TO JUSTICE	1.50	1.50-	.00
POSTAGE	14.00	14.00-	.00
COMMONWEALTH COST- HB627	26.40	26.40-	.00
FILING FEES COMM-COST	13.20	13.20-	.00
FILING FEES 37-CTY	26.40	26.40-	.00
TOTAL	90.00	90.00-	.00
CURRENT BALANCE DUE	.00		

RECVD FROM BEST, EILEEN E.
THANK YOU!

DATE PRINTED: 7/15/04 3:02:47 PM

AOPC 450-99

Money $2430.00 + $90.00 Court Cost

1st	Called	12/8/03	- no return call
2nd	"	12/9/03	" " "
3rd	"	12/22/03	" " "
4th	"	1/8/04	" " "
5th		2/25 - Spoke with Jerry - said he would call me back on 26th - Never did	
Called 2/25 - Spoke to Joellen - She said to send them back.			

Each time I called - spoke only with Joellen - She said no one was in the office & she would give them the message.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

M.E. Jones Herring
101 N Main St
Dubois, PA
15801

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Richelle Esposito ☑ Agent ☐ Addressee

B. Received by (Printed Name) Richelle Esposito
C. Date of Delivery 5/24/04

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7003 1680 0004 1104 1336

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

For letter sent to M.E. Jones

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

M.E. Jones Hearing Ref
101 N. Main St
Dubois, Pa
15801

COMPLETE THIS SECTION ON DELIVERY

X [signature] ☐ Agent ☐ Addressee

B. Received by (Printed Name) [illegible] Jones
C. Date of Delivery June 12

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☐ Certified Mail ☐ Express Mail
☒ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) RA 046 446 094 US

PS Form 3811, August 2001 Domestic Return Receipt 2ACPRI-03-P-4081

For Hearing Aid sent back to M.E. Jones

7003 1680 0004 1104 1336

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com®
DU BOIS PA 15801

Postage	$ $0.37
Certified Fee	$2.30
Return Reciept Fee (Endorsement Required)	$1.75
Restricted Delivery Fee (Endorsement Required)	$0.00
Total Postage & Fees	$ $4.42

0108 08 Postmark Here
MAY 22 2004
05/22/2004

Sent To M.E. Jones Herring
Street, Apt. No.; or PO Box No. 101 N Main St
City, State, ZIP+4 Dubois PA 15801

PS Form 3800, June 2002 See Reverse for Instructions

11:19 AM 12/8/03 - Hearing Aids - Lucy
Eileen wants to return her aids & get
her money back. - Jaellen -
Jaellen - 12-9-03 - wants to adjust them
Eileen says she wants to return them - Jaellen
said some one will get back to her in a
couple of days -

1st phone call To M.E. Jones

5-22-04

~~SIR~~ MR JONES

THIS LETTER IS BEING WRITTEN FROM THE ADVICE OF OUR DISTRICT JUSTICE, WE ARE GIVING YOU 10 DAYS FROM THE TIME YOU RECEIVE THIS LETTER. WE HAVE ALL PHONE CALLS DOCUMENTED THAT WAS TO YOUR OFFICE, AND WITNESSED. WE EXPECT FULL PAYMENT OF $3000 FOR HEARING AIDS THAT WERE RETURNED TO YOU IF NOT THERE WILL BE A ASSUMPSIT SUIT FILED AGAINST YOU.

Donald E Bost

SENT SAT. 22ND

Copy of Letter Sent to M.E. Jones.

No ANSWER FROM M.E. Jones.

F04-3536TBS

303/900 PT.
803

Received
Office of Attorney General
OCT 27 2004

Dear Sir

I would like your help if possible to obtain a refund for a hearing aide I bought from ME Jones Hearing Insts.
101 N Main St
Dubois Pa 15801
(814) 371-6401, 1-800-223-3341

I bought this hearing aide in Dec 03 with the understanding it had a 30 day return policy. However I never received this offer in writing. After two or three adjustments I could not hear any better & requested my money back, but they refused to return my phone calls or answer my letters.

C-006728-2004

finally in Feb. 04 They agreed
to make another adjustment.
The man who come to the house
gave me a copy of the cancellation
agreement finially, and a 30 day
extension on same.
Again I asked for a refund
within the record 30 day ept.
and again they refused to
call me back or answer my
letters. I returned the hearing
aids in good condition as stated
in their agreement but I still
have'nt heard from them in
regards to this policy.

Thank you

R.L. Diller

P.S. I have all of the paper
work including cancelled checks

R. L. Diller
204 Laura Ln.
Kittanning, PA 16201-1944
(724)548-4739

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 12-8-03

Name: ROBERT L DILLER Age: _____

Address: 204 LAURA LA Phone: (724) 548-4739

City: KITTANNING State: PA

Zip Code: 16201 County: _____ New ✓ Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSE	CANAL RIC.	(RT) LF.			V.C.

Full Hearing Aid Price 2200.00

Includes Impression Fee 35 Fitting & Dispensing Fee 150

..... Discount 200.00

Subtotal 2000.00

Down Payment ..... Check #766 ..... 750 00

Balance Due ..... Security Blue $500.00 ..... 1250.00

ID: 178165303

Bal - 750.00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF Two YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 8 Day of 12 year 03 Purchaser: Robert L Diller

In presence of:

Countersigned: Donald L Walter Co-purchaser: _____

Consultant and Registration Number: Donald L Walter 2676

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Robert L Diller AGE 71

ADDRESS 204 Laura Ln PHONE (724) 548-4739

CITY Kittanning STATE PA ZIP 16201

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100.00	CANCELLATION $	
FITTING/DISPENSING $	150	FITTING/DISPENSING $	
IMPRESSION FEE $	35	IMPRESSION FEE $	
TOTAL $	285.00	TOTAL $	

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

Robert L Diller — 12-8-03
CUSTOMER'S SIGNATURE — DATE

Don Walter — 12-8-03
REGISTRANT'S SIGNATURE — DATE

RECEIVED 2/10/04

ROBERT L. DILLER
DOLORES A. DILLER
204 LAURA LN.
KITTANNING, PA 16201-1944

77

Date 12 DEC 03

3-7615/

Pay to the order of ME JONES $ 750.00

SEVEN HUNDRED FIFTY & 00/100 Dollars

CITIZENS BANK
Pennsylvania

Citizens Circle Account

For

Robert L Diller

⑈036076150⑈ 610247839⑈ 0770 ⑈00000750OC

©Clarke American

ROBERT L. DILLER
DOLORES A. DILLER
204 LAURA LN.
KITTANNING, PA 16201-1944

766

Date 8 DEC 03

3-7615/360
951

Pay to the order of ME JONES $750.00

SEVEN HUNDRED FIFTY & 00/100 Dollars

CITIZENS BANK
Pennsylvania

Citizens Circle Account

For

Robert L Diller

⑈036076150⑈ 610247839⑈ 0766 ⑈00000750OO⑈

©Clarke American

M. E. Jones Hearing Instruments
101 N. Main St.
DuBois, PA 15801
(814) 371-6401 or 1-800-223-3341

Trial Period Extension

Name: Robert Diller

Address: 204 Laura Jane
Kittaning Pa 16201

Phone: (724) 548-4739

Purchase Date: 12-8-03

Delivery Date: 12-12-03

Trial Period Extended to: 3-10-04

Approved by: [signature]

Today's Date: 2-10-04

RECEIVED 2/10/04

M. E. Jones hearing

3-15-04

picked up Rt Hearing file

Serial # 03-108528

Fees Return

Rick Pope

Feb. 10 - received cancel. agreemen
~~ext~~ ext. to Mar. 10

Feb. 17 Sent letter to cancel - no
response

Mar 1 called told me someone wo
Fri Mar 5, no call I called appr
told me someone would come pic
when?
Picked up 3/15

Called 4/19 Told me to call
4/20 at 10:30 AM
No response

2 Waxwing Lane
East Amherst, NY 14051

Bureau of Consumer Protection
Office of the Attorney General
Erie Regional Office
1001 State St.
Erie, PA 16501

Dear Mr. Vandeveld,

Enclosed is a complaint I'm filing on behalf of my father, Stanley P. Duda, 209 Plummer St., Oil City, PA 16301. My father is over 80 years old, lives by himself, but does show his age and his mental capacity. I've enclosed a copy of his "Power of Attorney" to me, which at the conclusion of this matter, I'd like if possible, returned.

My name is Stanley J. Duda; my day phone # is 585-798-3565, eve # 716-688-5419.

Thank you in advance for your assistance on this matter, I look forward to a successful outcome on this complaint, the refunding to my father of his $2200.00 down payment.

Sincerely,

Stanley J. Duda
2 Waxwing Lane
East Amherst, NY 14051

Stanley P. Duda Complaint Overview

-On 10/10/04 a sales rep of M.E. Jones Hearing Instruments called my father to see if he was interested in a hearing aid, since he has trouble hearing, he agreed to an appointment.

-On 10/14/04, an R.W.Fauls, 2682, came to my dad's home, convinced my Dad to sign a medical waiver, #1 (a subsequent exam by an audiologist resulted in a ¼" wax plug removed from his left ear). Mr. Fauls did a hearing test and wrote up an order for 2 pro canal hearing aids, #2, a disclosure statement, #3, and a notice of cancellation, #4. My father gave Mr. Fauls a check #770 in the amount of $2200.00, #5, which was cashed on 10/15/04.

-On 10/16/04, during our weekly conversation, dad told me of his purchase and from whom. Not liking the idea of the in-home aspect of this, and the fact it was not his normal audiologist, I did some research and found out this company has not dealt fairly with the elderly and has outstanding issues with the courts and the Attorney Generals Office. I called my dad back and read me the notice of cancellation #5. I told him I was coming down and we were going to cancel his order.

-On 10/18/04, I drove to Dubois with the cancellation notice per the requirement of the notice, and letter from my dad, #6. a young man who identified himself as Mr Jones son, accepted the letter and notice #7.

-On 10/19/04, Mr. Fauls called my dad around noon, said he had the cancellation notice, that it was unnecessary for the hand delivery, a phone call would have sufficed and that he would see that the refund was processed.

-On 10/29/04, I called M.E.Jones, spoke to young lady who said no one was there I could talk to about the matter.

-To date, my father has not received the refund, thus the reason for this complaint.

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

www.attorneygeneral.gov

Office Use Only Investigator: KS Code 1 303 Code 2 [illegible]
Complaint # F05-03106TBS

JAN 19 2005

Office of Attorney General

Bureau of Consumer Protection
1001 State Street, Suite 1009
Erie, PA 16501
(814) 871-4371

Stanley P Duda
YOUR NAME

209 Plummer St.
ADDRESS

Oil City | PA | 16301 | Venango
CITY | STATE | ZIP CODE | COUNTY

HOME PHONE NUMBER | BEST NUMBER TO CALL DURING THE DAY

M.C. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Mark E Jones Dealer
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main St. P.O. Box 686
ADDRESS

Dubois | PA | 15801 | COUNTY
CITY | STATE | ZIP CODE

Call my Son - Stanley J. Duda day 585-798-3565
PHONE eve 716 688.5419

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aid Deposit	10/14/04	4400.00
		Deposit
		2200.00

To what other agencies have you complained? None

What action was taken?

Have you retained an attorney? o Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? o Yes ☒ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Not Yet

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☒ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☒ Other- Please Specify: Son

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

See Attached

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Return Deposit of $2200.00

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Stanley P. Nuda
YOUR SIGNATURE

1-11-05
DATE

#1

MEDICAL WAIVER

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

R.W. FAULS (Registrant's Name) has fully and clearly informed me of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

RW Faulk (Signature of Registrant)

x [signature] (Signature of Purchaser)

10/14/04 (Date)

NOTICE

THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU.

THIS POWER OF ATTORNEY DOES NOT IMPOSE A DUTY ON YOUR AGENT TO EXERCISE GRANTED POWERS, BUT WHEN POWERS ARE EXERCISED, YOUR AGENT MUST USE DUE CARE TO ACT FOR YOUR BENEFIT AND IN ACCORDANCE WITH THIS POWER OF ATTORNEY.

YOUR AGENT MAY EXERCISE THE POWERS GIVEN HERE THROUGHOUT YOUR LIFETIME, EVEN AFTER YOU BECOME INCAPACITATED, UNLESS YOU EXPRESSLY LIMIT THE DURATION OF THESE POWERS OR YOU REVOKE THESE POWERS OR A COURT ACTING ON YOUR BEHALF TERMINATES YOUR AGENT'S AUTHORITY.

YOUR AGENT MUST KEEP YOUR FUNDS SEPARATE FROM YOUR AGENT'S FUNDS.

A COURT CAN TAKE AWAY THE POWERS OF YOUR AGENT IF IT FINDS YOUR AGENT IS NOT ACTING PROPERLY.

THE POWERS AND DUTIES OF AN AGENT UNDER A POWER OF ATTORNEY ARE EXPLAINED MORE FULLY IN 20 PA.C.S. CH.56.

IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER OF YOUR OWN CHOOSING TO EXPLAIN IT TO YOU.

I HAVE READ OR HAD EXPLAINED TO ME THIS NOTICE AND I UNDERSTAND ITS CONTENTS.

Stanley P. Duda — October 19, 2004

(NAME) Stanley P. Duda (DATE)

M.E. JONES HEARING INSTRUMENTS #2

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 10/14/04

Name: Stanley P. Duda Age: 80

Address: 209 Hummer St. Phone: (814) 677-6831

City: Oil City State: Pa

Zip Code: 16301 County: Venango New X Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI	Pico Canal	RT. / LF.		?	mw

Full Hearing Aid Price $1400.00

Includes Impression Fee 50.00 Fitting & Dispensing Fee 450.00

..... —

Subtotal 1400.00

Down Payment 200.00

Balance Due ..... model $1200.00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ), I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☒ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 14th Day of October year 2004 Purchaser: S. P. Duda

In presence of:

Countersigned: RW Fauls Co-purchaser: _____

Consultant and Registration Number: RW FAULS 2682

#3.

HEARING AID DISCLOSURE AGREEMENT/MONEY BACK GUARANTEE

M.E. JONES HEARING INSTRUMENTS
101 North Main Street
DuBois, PA 15801
(814)371-6401 or 1(800)223-3341

PART A

Description of services included in fitting procedure or process, and sale and delivery of hearing aid.	FEE (State whether fee is waived if hearing aid is purchased)	REFUNDABLE (upon return of hearing aids)	NOT REFUNDABLE
Pure tone & bone conduction, speech	N/C		
Case history & audiogram interpretation	N/C		
Hearing aid demonstration	N/C		
Ear impression	$25.00 per ear (not waived)		$25.00 per ear
Professional consultation & Selection of hearing aids	$75.00 per ear (not waived)		$75.00 per ear
Programming (if necessary)	$100.00 per ear (not waived)		$100.00 per ear
Delivery fee—includes instructions of use, physical & acoustic modifications & fit verification	$50.00 per ear (not waived)		$50.00 per ear

THIS DISCOLUSRE AGREEMENT WAS PROVIDED, PARTS A AND B WERE EXPLAINED, AND PART A (FEES FOR SERVICES NOT PART OF THE PRICE OF THE HEARING AID) WAS COMPLETED AT 11:30AM **(time) ON** 10/14/04 **(date), BEFORE ANY SERVICES WERE PROVIDED. PART B (CANCELLATION FEES THAT WILL BE INCURRED IF A HEARING AID IS RETURNED UNDER THE 30-DAY MONEY BACK GUARANTEE BELOW), WAS COMPLETED AND EXPLAINED AFTER SERVICES WERE PROVIDED AND BEFORE ANY PAYMENT WAS MADE. IF PART B IS NOT COMPLETED, IT IS BECAUSE A HEARING AID WAS NOT RECCOMMENDED OR NOT DESIRED**

NOTHING IN THIS DISCLOSURE AGREEMENT SHALL RELIEVE A REGISTRANT OF THE OBLIGATION TO REFUND ALL OR PART OF THE ABOVE FEES, INCLUDING THOSE LISTED AS NOT REFUNDABLE, IF A COURT DETERMINES THAT THE REGISTRANT HAS VIOLATED A PENNSYLVANIA CONSUMER PROTECTION LAW IN THE SALE OR FITTING OF A HEARING AID (OR SIMILAR DEVICE) AND IF THE COURT ORDERS SUCH REFUND.

6
Customer's Signature

RW Fauls
Registrant's Signature

PART B

HEARING AIDS & ACCESSORIES	DESCRIPTION OF GOODS Include make, model, Serial number(s)	PRICE	REFUNDABLE (Upon return of hearing aid)	NOT REFUNDABLE (CANCELLATION FEE)
Hearing Aid(s) Right	Pro Canal	1950	1800	150
Left	Pro Canal	1950	1800	150
Accessories (Describe, if applicable)				
TOTAL				
Total maximum Cancellation Fee is lesser of 10% or $150 per hearing aid including accessories.				

30 Day Money Back Guarantee: If a hearing aid is returned within 30 days of date of delivery in the same condition, ordinary wear and tear excluded, you are entitled to a refund of the portion of the purchase price of the hearing aid and accessories as itemized on the receipt above, less the cancellation fee stated above. If a cancellation fee is imposed the nonrefundable amount for each aid and accessories cannot exceed 10% of the purchase price of the hearing aid and accessories or $150.00 per aid and accessories, whichever is less. You will, however, be responsible for all nonrefundable service fees listed in Part A. If you cancel your order prior to delivery, you are entitled to a full refund of the purchase price of the aid and accessories, and a full refund for services not yet rendered.

Customer's Signature

10/14/04 1:00 PM
Date and time of Sale

Date of Delivery

RW Fauls
Registrant's Signature

2682
Registration No.

Customer's Initials

#4

NOTICE OF CANCELLATION

Date: 10/14/04

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OF SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO:

M.E. JONES HEARING INSTRUMENTS, AT 101 N. MAIN STREET, DUBOIS, PA 15801, NOT LATER THAN MIDNIGHT OF 10/18/04.
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

Stanley R. Wade 10/18/2004 6:52 P.M.

(BUYER'S SIGNATURE)

ACKNOWLEDGMENT OF COPY

CITIZENS BANK

1-888-910-4100

Call Citizens' PhoneBank anytime for account information, current rates and answers to your questions.

US059 BR382 12 1

STANLEY P DUDA
209 PLUMMER ST
OIL CITY PA 16301-1747

Checking Account Statement

1 OF 2

Beginning October 06, 2004
through November 03, 2004

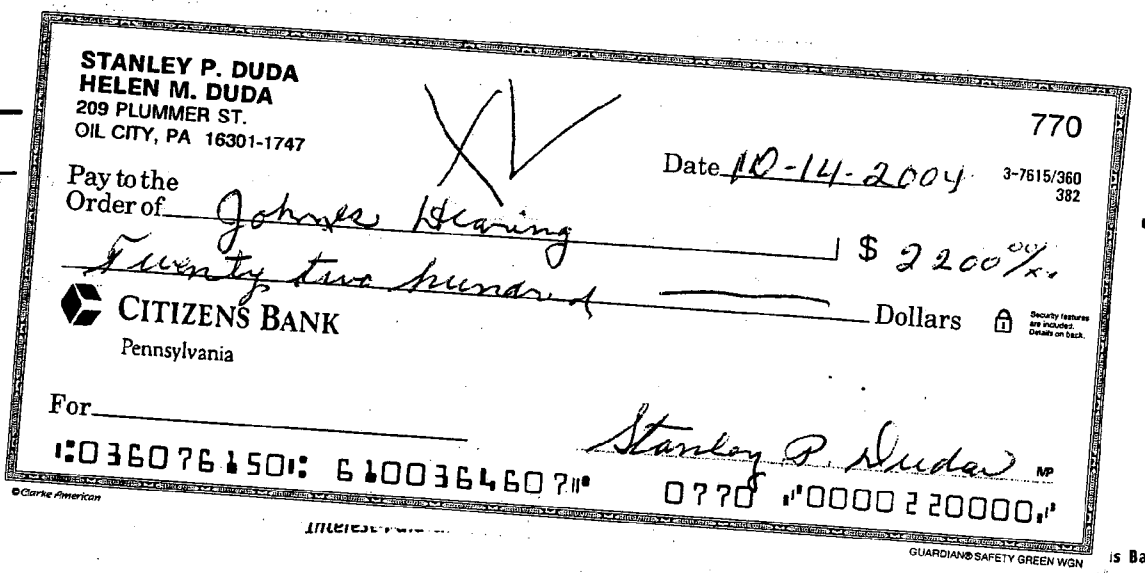
#5

Checking

SUMMARY

Balance Calculation

Previous Balance
Checks
Withdrawals
Deposits & Additions
Interest Paid
Current Balance



est

is Balance
20,627.29

TRANSACTION DETAILS

Checks* *There is a break in check sequence*

Check #	Amount	Date	Check #	Amount	Date

#6

M.E. Jones Hearing Instruments
101 N. Main St.
Dubois, Pa 15801

M.E. Jones

I, Stanley P. Duda, 209 Plummer St., DuBois City Pa. Hereby request the cancellation of my hearing aid order that Mr. RW Fauls wrote up on 10/14/04. I expect to receive refund of my Deposit of $2200 per your documents Signed

Commonwealth of Pennsylvania

County of Venango

On this 19th *day of* October, 2004 *, before me a Notary Public came the above named* Stanley P. Duda, unmarried, *and acknowledged the foregoing Power of Attorney to be* his *act and deed, and desired the same to be received and recorded as such in any part of the United States of America or elsewhere.*

WITNESS my hand and notarial seal, the day and year aforesaid.

NOTARIAL SEAL
ROBERTA STEELE
Notary Public
OIL CITY, VENANGO COUNTY
My Commission Expires May 23, 2008

Roberta Steele (SEAL)

ACKNOWLEDGMENT

I, Stanley J. Duda *, have read the attached Power of Attorney and am the person identified as the agent for the principal. I hereby acknowledge that in the absence of a specific provision to the contrary in the Power of Attorney or in 20 Pa.C.S. when I act as agent::*

I shall exercise the powers for the benefit of the principal.

I shall keep the assets of the principal separate from my assets.

I shall exercise reasonable caution and prudence.

I shall keep a full and accurate record of all actions, receipts and disbursements on behalf of the principal.

Agent - Stanley J. Duda

October 19, 2004
Date

COPY

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED

GERALD J. PAPPERT
ATTORNEY GENERAL

www.attorneygeneral.gov

FEB 07 2005

Bureau of Consumer Protection
Administration Section
14th Floor Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

OFFICE OF ATTORNEY GENERAL

Office Use Only Investigator: Code 1 303 Code 2 820 802
Complaint # F05-0380 TBS

RECEIVED
JAN 31 2005
Office of Attorney General

Philip A. Fedeli SR.
YOUR NAME

145 W. Liberty St
ADDRESS

Sykesville, PA. 15865 Jefferson
CITY STATE ZIP CODE COUNTY

814-894-7848 — SAME
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☒ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☒ Internet
- ☐ Other- Please Specify:

M.E. JONES Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Ricky Pape
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 Main
ADDRESS

DuBois PA 15801 Clearfield
CITY STATE ZIP CODE COUNTY

1-(800) 223-3341 OR 814-371-6401
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids (2) L&R	$2800 9/11/04	$5600.00
	$2800 9/17/04	total

(This information will be used for Statistical & Enforcement Purposes Only)

To what other agencies have you complained? NONE

What action was taken? N/A.

Have you retained an attorney? ☐ Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

N/A.

Have you filed a court action? ☐ Yes ☒ No
If yes, please state WHEN, WHERE and WHAT decision was made?

N/A

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

Aug. 25, 2004 Hearing test (Mr Pape)
Sept. 11, 2004 (SAT) Impressions & I made ½ Pmt $800.00
Sept. 17, 2004 Between 1:30-3:00 P.M. Hearing aids in & I made final Pmt. $2800.00 (total $5600.00)
Sept 17, 2004, Starter wearing instructions, which ended on Oct. 16, 2004. Sept. 27, 2004 Received 10 day battery supply. Oct. 13 Last adjustment 1:00 PM (R. Pape) which did not help. Made more adjustment offers which I refused & ask for a Refund. I was then strung along further by trying for a refund of $1600.00 from my former employee, Rockwell Mfg. Inc. now owned by Boeing. More waiting. I called for a REFUND again and was refused — TO LATE!! was the answer.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $5600.00 minus $300.00 Cancellation Fee and $500.00 Impression, Fitting & Despensing Fees.
Total $4800.00 refund.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Ralph Fedeli Sr — Jan. 25, 2005

YOUR SIGNATURE — DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 9-11-04

Name: Philip Fedeli Sr. Age: 82

Address: 145 W. Liberty St Phone: (814) 894-7848

City: Sykesville State: Pa

Zip Code: 15865 County: New X Used Reconditioned

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI	CIC Dig	RT		10	push
	CIC Dig	LF.			waxtool

Full Hearing Aid Price ..... 6000 a

Includes Impression Fee 50 Fitting & Dispensing Fee 450

Pd. 2,800 (NW) ck# 578 9/11/04

..... -400

Subtotal ..... 5600 a

Down Payment ..... - 2800 a

Balance Due On Delivery or ATPS 2800 a

9-17-04 Rudi Pape Paid in Full (ck# 577) (NW)

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF TWO YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

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IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 11 Day of Sept year 04 Purchaser: X Philip Fedeli Sr.

In presence of:

Countersigned: Co-purchaser:

Consultant and Registration Number: Rudy Pape 2548

WARRANTY AND SERVICE CARD

WARRANTY EXTENDED TO: Fedeli, Philip Sr

WARRANTY EXPIRES: 9106

MODEL: CIC Dig BATTERY SIZE: 10

SERIAL NUMBER: L 04 125325

R 04 125363

3 seperate documents

FOR BATTERY & SERVICE NEEDS CONTACT:

M.E. Jones Hearing Instruments
101 N. Main
DuBois, PA 15801
1 (800) 223-3341 or (814) 371-6401

1.

PHILIP A. FEDELI, SR.
MARSHA F. LUKASAVICH
202 W LIBERTY ST.
SYKESVILLE, PA 15865

60-7421/2433
914006580

No. 578

Date Sept. 14 2004

Pay to the order of M.E. Jones Hearing Instruments $2,800.00

Two Thousand Eight Hundred ——— Dollars

NORTHWEST SAVINGS BANK

For Instr. #1 Hearing Aid

Philip A. Fedeli Sr.

⑆243374218⑆ 914006580⑈ 0578 ⑈0000280000⑈

2.

09/14/04 300247470 578 2,800.00

PHILIP A. FEDELI, SR.
MARSHA F. LUKASAVICH
202 W LIBERTY ST.
SYKESVILLE, PA 15865

60-7421/2433
914006580

No. 577

Date Sept. 17 2004

Pay to the order of M.E. Jones Hearing Instr. $2,800.00

Two Thousand Eight Hundred and 00/100 Dollars

NORTHWEST SAVINGS BANK

For Instr. #1 H.I.

Philip A. Fedeli Sr.

⑆243374218⑆ 914006580⑈ 0577 ⑈0000280000⑈

3.

09/20/04 800510130 577 2,800.00

Rick Pape

101 North Main Street
DuBois, PA 15801
(814)371-6401 or 1(800)223-3341

PART A

Description of services included in fitting procedure or process, and sale and delivery of hearing aid.	~~FEE~~ (State whether fee is waived if hearing aid is purchased)	REFUNDABLE (upon return of hearing aids)	NOT REFUNDABLE
Pure tone & bone conduction, speech	N/C		
Case history & audiogram interpretation	N/C		
Hearing aid demonstration	N/C		
Ear impression	$25.00 per ear		$25.00 per ear
Professional consultation & Selection of hearing aids	$75.00 per ear		$75.00 per ear
Programming (if necessary)	$100.00 per ear		$100.00 per ear
Delivery fee—includes instructions of use, physical & acoustic modifications & fit verification	$50.00 per ear		$50.00 per ear

THIS DISCOLUSRE AGREEMENT WAS PROVIDED, PARTS A AND B WERE EXPLAINED, AND PART A (FEES FOR SERVICES NOT PART OF THE PRICE OF THE HEARING AID) WAS COMPLETED AT 11:07 **(time) ON** 8-25-04 **(date), BEFORE ANY SERVICES WERE PROVIDED. PART B (CANCELLATION FEES THAT WILL BE INCURRED IF A HEARING AID IS RETURNED UNDER THE 30-DAY MONEY BACK GUARANTEE BELOW), WAS COMPLETED AND EXPLAINED AFTER SERVICES WERE PROVIDED AND BEFORE ANY PAYMENT WAS MADE. IF PART B IS NOT COMPLETED, IT IS BECAUSE A HEARING AID WAS NOT RECCOMMENDED OR NOT DESIRED**

NOTHING IN THIS DISCLOSURE AGREEMENT SHALL RELIEVE A REGISTRANT OF THE OBLIGATION TO REFUND ALL OR PART OF THE ABOVE FEES, INCLUDING THOSE LISTED AS NOT REFUNDABLE, IF A COURT DETERMINES THAT THE REGISTRANT HAS VIOLATED A PENNSYLVANIA CONSUMER PROTECTION LAW IN THE SALE OR FITTING OF A HEARING AID (OR SIMILAR DEVICE) AND IF THE COURT ORDERS SUCH REFUND.

Customer's Signature

Registrant's Signature

PART B

HEARING AIDS & ACCESSORIES		DESCRIPTION OF GOODS Include make, model, Serial number(s)	PRICE	REFUNDABLE (Upon return of hearing aid)	NOT REFUNDABLE (CANCELLATION FEE)
Hearing Aid(s)	Right	MSE CIC DIG	2550	2400	150
	Left	MSE CIC DIG	2550	2400	150
Accessories (Describe, if applicable)					
TOTAL					

Total maximum Cancellation Fee is lesser of 10% or $150 per hearing aid including accessories.

30 Day Money Back Guarantee: If a hearing aid is returned within 30 days of date of delivery in the same condition, ordinary wear and tear excluded, you are entitled to a refund of the portion of the purchase price of the hearing aid and accessories as itemized on the receipt above, less the cancellation fee stated above. If a cancellation fee is imposed the nonrefundable amount for each aid and accessories cannot exceed 10% of the purchase price of the hearing aid and accessories or $150.00 per aid and accessories, whichever is less. You will, however, be responsible for all nonrefundable service fees listed in Part A. If you cancel your order prior to delivery, you are entitled to a full refund of the purchase price of the aid and accessories, and a full refund for services not yet rendered.

Customer's Signature

1:10 9-11-04
Date and time of Sale

9-17-04
Date of Delivery

Registrant's Signature

7548
Registration No.

Customer's Initials

WEARING INSTRUCTIONS FOR YOUR NEW HEARING AID(S)

In most cases, it takes many years for a hearing loss to occur. During that time, you became accustomed to not hearing many of the sounds around you. Give yourself the time needed to grow accustomed to those sounds again. The following wearing program has been devised for you to receive the optimum hearing possible with your new hearing aid(s). It is to your benefit to follow the instructions outlined below.

WEEK 1: Wear your hearing aid(s) for 2-3 hours a day in your home only. Sept 17th to 24th

WEEK2: Wear your hearing aid(s) for 4-6 hours a day in and around your own home only. 24th 31st or 1st Oct

WEEK 3: Wear your hearing aid(s) for 6-8 hours a day under normal circumstances. Avoid extremely loud situations. 2nd to 8th Oct

WEEK 4: Wear for as long as you like. Should you feel that your hearing aid(s) need further adjustments, call ~~371-6401 or~~ 1-800-223-3341 for service. 4th Oct to 16th

I, PH-FEDELI, have been given the wearing instructions for my new hearing aid(s) on 9-17-04. I have read and fully understand these instructions as they were explained to me by Rick Pape. I agree to follow these instructions and call the phone number listed above should I have any problems or feel I need further adjustments. I understand that I may need to follow these instructions even if I have worn hearing aids in the past.

SIGNATURE DATE 9-17-04

REGISTRANT DATE 9-17-04

Oct 13th/04 Adjustment 1:00 PM Pape

MEDICAL WAIVER

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

Ricky Pape has fully and clearly informed me (Registrant's Name) of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

(Signature of Registrant)

(Signature of Purchaser)

9-11-04

(Date)

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED

SEP 23 2004

Office of Attorney General

GERALD J. PAPPERT
ATTORNEY GENERAL

www.attorneygeneral.gov

Office Use Only Investigator: Code 1 303 Code 2 820 815
Complaint # F04-3049 TBS/TWC

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 471-1831

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☐ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

YOUR NAME DORIS E. GARMAN

ADDRESS 467 GARMAN ROAD

CITY DuBois **STATE** PA. **ZIP CODE** 15801 **COUNTY** CLEARFIELD

HOME PHONE NUMBER 814-583-5502 **BEST NUMBER TO CALL DURING THE DAY** 814-583-5502

NAME OF BUSINESS COMPLAINT IS AGAINST M.E. JONES HEARING INSTRUMENTS

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED ROBERT W. FAULS

ADDRESS 101 N. MAIN ST

CITY DuBois **STATE** PA. **ZIP CODE** 15801 **COUNTY** CLEARFIELD

PHONE 814-371-6401 OR 1 800-223-3341

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
2 HEARING AIDS	6-3-04	$4000.-

To what other agencies have you complained? JUST TO THEIR OFFICE

What action was taken? NONE

Have you retained an attorney? ○ Yes ● No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ○ Yes ● No
If yes, please state **WHEN**, **WHERE** and **WHAT** decision was made?

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

M.E. Jones & Company called and offered to test my hearing free of charge on June 3, 2004. I agreed and Mr. Fauls came on June 3, 2004 and tested my hearing. My husband was needed to do part of the hearing test and Mr. Fauls asked him if he agreed I needed hearing aids. He answered yes. The he told my husband he could leave. When I finally went to sign the papers, I said I wanted to make sure that my husband agreed to the signing. Mr. Fauls said that he had already said it was okay before. But all he said was that I needed hearing aids, not that it was okay to buy them. I gave Mr. Fauls my credit card to pay for the down payment ($2,000.00) but instead he took out the entire amount ($4000.00) You can see on the sheet where the $2000.00 was crossed out and $4000.00 was written in. I didn't keep all the dates that he came back because I didn't think I needed all that information. I returned the hearing aids to their office on June 14, 2004. However I didn't sign and return the notice of cancellation to their office until much later than this. Mr. Fauls continued to have me wait until he brought back the hearing aids about keeping them and trying them first and see how I like them first and if we still didn't like them, he would give our money back. He put them in my ears and asked us to try them for a while. However I couldn't get them out of my ears and when we finally got them out (by hurting my ears), I couldn't get them to go back in again. My husband tried to put them in too but couldn't.

I called that day and said to come and get them - they hut my ears. He finally came and took them back and I've never heard from him (Fauls) since. I have called many times, but cannot get anyone to call us back. That is when we called your office. We want our money back.

Phone 814-583-5502

Mrs. Doris Garman
467 Garman Road
DuBois, Pa
15801

MEDICAL WAIVER

"I have been advised that my best interests would be served if I had a medical examination by an otologist or otolaryngologist or any licensed physician before my purchase of a hearing aid.

R W FAWCS (Registrant's Name) has fully and clearly informed me of the value of such medical examination. After such explanation, I voluntarily sign this waiver. I choose not to seek a medical examination before the purchase of the hearing aid."

R W Fawcs (Signature of Registrant)

X [signature] (Signature of Purchaser)

6-3-04 (Date)

6011 0023 4150 0957
July 16, 2004
ıe $88.00
$14,500
$10,072
$7,300.00
$7,300.00

previous balance		$403.29
payments and credits	-	403.29
purchases	+	4,391.30
cash advances	+	0.00
balance transfers	+	0.00
FINANCE CHARGES	+	0.00
new balance	=	$4,391.30

You may be able to avoid Periodic Finance Charges, see the reverse side for details.

lions of credit cards are lost or stolen every year? Enjoy peace of mind by knowing The Register(R)
› you should you ever lose your credit, debit and ATM cards. Call 1-800-347-3395 to enroll today.

ıack Bonus®
AWARD

Cashback Bonus® Anniversary Date: May 17

Previous Cashback Bonus Award Balance	$	69.86
Purchase Award This Period	+	25.16
Other Awards This Period	+	11.59
Cashback Bonus Award Total		106.61
Redemptions This Period	-	60.00
Cashback Bonus Award Balance		**46.61**
Award Available to Redeem	$	40.00

	trans. date	post date		
ts	Jun 9	Jun 9	PAYMENT - THANK YOU	$ -343.29
redits	Jun 15	Jun 15	REWARD REDEMPTION CREDIT	-60.00
	May 17	May 18	ECKERD DRUG #6210 DUBOIS PA	6.36
	May 24	May 24	CVS 5709 DUBOIS PA	45.04
	May 25	May 25	CVS 5709 DUBOIS PA	13.77
	Jun 3	Jun 3	BENNETT HEARING CO INC WILLIAMSPORT PA	4,000.00
	Jun 9	Jun 9	CVS 5709 DUBOIS PA	98.54
	May 17	May 18	BILO FOODS #9231 SC2 DUBOIS PA	43.59
	May 18	May 18	BILO FOODS #9003 SC2 DUBOIS PA	12.89
	May 25	May 25	BILO FOODS #9003 SC2 DUBOIS PA	19.71
	May 25	May 25	BILO FOODS #9231 SC2 DUBOIS PA	40.45
	Jun 1	Jun 1	DUBOIS SAVE-A-LOT DUBOIS PA	25.66
	Jun 5	Jun 5	SANDY TWP SHOP 'N SAVE DUBOIS PA	27.76
	Jun 9	Jun 9	BILO FOODS #9003 SC2 DUBOIS PA	39.57
	Jun 10	Jun 10	BILO FOODS #9231 SC2 DUBOIS PA	12.67
	Jun 5	Jun 5	LOWES 1010 DUBOIS PA	5.29

22759

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 6-3-04

Name: Doris E Harman Age: 77

Address: 467 Harmon Rd Phone: (814) 583-5502

City: DuBois State: Pa

Zip Code: 15801 County: Clfd New X Used ____ Reconditioned ____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MS	Pro Canal	RT. LF.			Mo V/T

Full Hearing Aid Price ..... # 1400.00

Includes Impression Fee 70 Fitting & Dispensing Fee 300

..... discount -400.00

Subtotal 4000.00

Down Payment 6011 0023 4150 0957 04/05 4000.00

Balance Due ..... ~~credit~~ # 0000.00

Heisinger Hold 10000 46801

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER (~~),~~ THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( )

☒ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 3rd Day of June year 2004 Purchaser: [signature]

In presence of:

Countersigned: [signature] Co-purchaser: ____

Consultant and Registration Number: FW FAU MS 2662

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Doris E. Harman AGE 77

ADDRESS 467 Harman Rd PHONE (814) 583-5502

CITY DuBois STATE Pa ZIP 15801

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100-	CANCELLATION $	100-
FITTING/DISPENSING $	150-	FITTING/DISPENSING $	150-
IMPRESSION FEE $	35-	IMPRESSION FEE $	35-
TOTAL $	285-	TOTAL $	285-

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Doris Harman — 6-3-04

CUSTOMER'S SIGNATURE — DATE

RW Faulds — 6-3-04

REGISTRANT'S SIGNATURE — DATE

WEARING INSTRUCTIONS FOR YOUR NEW HEARING AID(S)

In most cases, it takes many years for a hearing loss to occur. During that time, you became accustomed to not hearing many of the sounds around you. Give yourself the time needed to grow accustomed to those sounds again. The following wearing program has been devised for you to receive the optimum hearing possible with your new hearing aid(s). It is to your benefit to follow the instructions outlined below.

WEEK 1: Wear your hearing aid(s) for 2-3 hours a day in your home only.

WEEK2: Wear your hearing aid(s) for 4-6 hours a day in and around your own home only.

WEEK 3: Wear your hearing aid(s) for 6-8 hours a day under normal circumstances. Avoid extremely loud situations.

WEEK 4: Wear for as long as you like. Should you feel that your hearing aid(s) need further adjustments, call 371-6401 or 1-800-223-3341 for service.

I, DORIS GARMAN have been given the wearing instructions for my new hearing aid(s) on 6-14-04. I have read and fully understand these instructions as they were explained to me by BOB FAULS. I agree to follow these instructions and call the phone number listed above should I have any problems or feel I need further adjustments. I understand that I may need to follow these instructions even if I have worn hearing aids in the past.

V Doris Garman
SIGNATURE DATE

REGISTRANT 6-14-04
REGISTRANT DATE

321775

ME Jones Hearing
101 N. Main St.
DuBois, PA 15801

CUSTOMER'S ORDER NO.	DATE 6-14-04
NAME Doris Harman	
ADDRESS	
CITY, STATE, ZIP	

SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE. RETD.	PAID OUT
					X	

	QUAN.	DESCRIPTION	PRICE	AMOUNT
1	2-	return of		
2		hearing aids		
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

RECEIVED BY Trudy

adams 4705 KEEP THIS SLIP FOR REFERENCE

NOTICE OF CANCELLATION

Date: 6-3-04

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OF SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO:

M.E. JONES HEARING INSTRUMENTS, AT 101 N. MAIN STREET, DUBOIS, PA 15801, NOT LATER THAN MIDNIGHT OF 6-7-04.
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

Doris E Jarman

Doris E Jarman
(BUYER'S SIGNATURE)

ACKNOWLEDGMENT OF COPY

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

www.attorneygeneral.gov

Office Use Only Investigator: KS Code 1 303 Code 2 900
Complaint # F04-4094TBS
RECEIVED 303 DEC 10 2004 802 8

Bureau of Consumer Protection
1001 State Street, Suite 1009
Erie, PA 16501
(814) 871-4371

JAMES N GREENAWALT
YOUR NAME

5985 FISHER RD
ADDRESS

STRATTANVILLE PA 16258 CLARION
CITY STATE ZIP CODE COUNTY

814-764-3414 SAME
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. JONES HEARING INSTRUMENT
NAME OF BUSINESS COMPLAINT IS AGAINST

SEC. & RICK PAPE SALESMAN.
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. MAIN ST PO BOX 696
ADDRESS

DU BOIS PA 15801
CITY STATE ZIP CODE COUNTY

814-371-6401 or 800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
HEARING AID'S	6-28-04	$6,600 Reduced To
3500 AFTER INS WOULD NOT PAY $4600		

To what other agencies have you complained? NONE

What action was taken?

Have you retained an attorney? o Yes ✓ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? o Yes ✓ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Your Age:
- 18-29
- 30-44
- 45-59
- ✓ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify: I WAS A UNION EXECUTIVE OFFICE

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

I PURCHASED HEARING AID'S AFTER MANY CALLS & SEVERAL TRIPS TO MY HOME BY MR. PAPE THIS WAS ON 6-28-04 WAS TOLD WOULD BE 3-4 WEEK TO GET THEM NOT SMO PRICE WAS $6,600 INS WOULD ONLY PAY $3500 THEY HAD AGREED TO ACCEPT INS AS FULL PAYMENT. AFTER SEVERAL WEEKS THEY CALLED & SAID THEY WERE CHECKING OUT THE POSIBILITY OF ACCEPTING THE INS MONEY. ANOTHER CALL SAID THEY WOULD ACCEPT IT. THIS WAS I BELEIVE IN NOV I THOUGHT THEY HAD THE AIDS BY NOW WAS TOLD WOULD BE ORDERED I'm VERRY MUCH AFRAID THEY ARE MAKING A PAIR OF INFERIOR AIDS BECAUSE OF THE COST REDUCTION I RECEIVED A CALL AS I WAS MAKING THIS FORM OUT STATING AIDS WERE IN. 12-7-04. DID NOT MAKE AN APPOINTMENT FOR FITTING.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

I WOULD LIKE THEM TO SEND EVERY DOLLAR THEY RECEIVED FROM MY INS. CO BACK TO THEM & I'LL FIND ANOTHER DEALER. I DON'T TRUST THEM.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

James N Greenawalt
YOUR SIGNATURE

12-7-04
DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 7-28-04

Name: James Greenawalt Age: 67

Address: 5985 Fisher Rd Phone: (814) 764-3414

City: Stratenville State: Pa

Zip Code: 16258 County: New X Used ____ Reconditioned ____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI	Dig DO	RT. CIC		10	Pouch Wax tool
		LF. CIC			

Full Hearing Aid Price 6600.00

Includes Impression Fee 50.00 Fitting & Dispensing Fee 450.00

..... ____

Subtotal 6600.00

Down Payment ..... ____

Balance Due 6600.00

To be paid by General Ins exchange
PO Box 1849 Stevenson 44, 224

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF TWO YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

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IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

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THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

❑ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 28 Day of June year 04 Purchaser: X James Greenawalt

In presence of:

Countersigned: Rick Pope Co-purchaser: ____

Consultant and Registration Number: Rick Pope 2548

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

GERALD J. PAPPERT
ATTORNEY GENERAL

www.attorneygeneral.gov

RECEIVED
OCT 18 2004

Office of Attorney General
Bureau of Consumer Protection
Administrative Office
14th Floor Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

Office Use Only Investigator: Code 1 303 Code 2 407
Complaint # FO4-340STBS / Deutsch

RECEIVED
OCT 12 2004
Office of Attorney General

Eleanor Halaszynski
YOUR NAME

216 N. 2nd St Apt. 306
ADDRESS

Philipsburg PA 16866 Centre
CITY STATE ZIP CODE COUNTY

(814) 342-2535
HOME PHONE NUMBER BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Mark Jones
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main St. PO Box 686
ADDRESS

DuBois PA 15801 Clearfield
CITY STATE ZIP CODE COUNTY

(814) 371-6401
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aid -down payment	6-15-04	$1,000.00

To what other agencies have you complained? _____

What action was taken? _____

Have you retained an attorney? ☐ Yes ☒ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☒ No
If yes, please state WHEN, WHERE and WHAT decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☒ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☒ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

After putting $1,000 down for a hearing aid I called the next day to cancel the order. I never received the order or my down payment of $1,000 back. I have tried repeatedly to call them. They are always out and never return my call.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund my $1,000 down payment.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Eleanor Halaszynski
YOUR SIGNATURE

10/04/04
DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Eleanor halasgunski AGE 72

ADDRESS 216 N 2nd St Apt 306 PHONE (814) 342-2535

CITY Philipsburg STATE Pa ZIP 16866

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	100 ea	CANCELLATION $	100 ea
FITTING/DISPENSING $	150 ea	FITTING/DISPENSING $	150 ea
IMPRESSION FEE $	35 ea	IMPRESSION FEE $	35 ea
TOTAL $	285 ea	TOTAL $	285 ea

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Eleanor Halasgunski — 6-14-04
CUSTOMER'S SIGNATURE — DATE

X — 6-15-04
REGISTRANT'S SIGNATURE — DATE

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 6-15-04

Name: Eleanor Hakstynski Age: 72

Address: 216 W 2nd St Apt 306 Phone: (814) 342-2535

City: Philipsburg State: Pa

Zip Code: 16866 County: _____ New X Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MST	pro Full	(RT) w/memory	no# 13	13	pwch
MST	pro Full	(LF) w/memory	no#	13	wax tool

Full Hearing Aid Price 4000.00

Includes Impression Fee X Fitting & Dispensing Fee 300

101 N Main St. ..... -200.00

Subtotal 3800.00

Down Payment ..... -1000.00

Balance Due On Delivery of AIDS 2800.00

MK Jones

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF TWO YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS-- YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 15 Day of June year 04 Purchaser: X Eleanor Hakstynski

In presence of:

Countersigned: _____ Co-purchaser: _____

Consultant and Registration Number: King Pape 254

NOTICE OF PRIVACY PRACTICES FOR M.E. JONES HEARING INSTRUMENTS

This notice describes how hearing health information about you may be used and disclosed and how you can get access to this information. Please review it carefully.
If you have questions about this notice please contact:
Jo Ellen Pape, Privacy Officer
101 N. Main Street
DuBois, PA 15801
814-372-6401 or 1-800-223-3341

To Our Patients: This notice of Privacy Practices describes how health information about you, as a patient of M.E. Jones Hearing Instruments of DuBois, PA may be used and disclosed, and how you can get access to your hearing health records. This is required by the Privacy Regulations created as a result of the Health Information Portability and Accountability Act of 1996 (HIPAA).

Our Commitment to Your Privacy We realize that these laws are complicated, but we must provide you with the following important information

Use and Disclosure of Your health information in Certain Circumstances. The following circumstances may require us to use or disclose your hearing health information:

1. To public health authorities and health oversight agencies that are authorized by law to collect information.
2. To hearing aid manufacturers for administrative purposes.
3. Lawsuits and similar proceedings in response to a court order.
4. Law enforcement officials, if required to do so by law.
5. When necessary to reduce or prevent a serious threat to your health and safety.
6. For workers compensation and similar programs.
7. To correctional institutions or law enforcements officials if you are an inmate or under the custody of a law enforcement official.
8. To long term care facilities, assisted living or personal care homes, if you are a resident.
9. To support continued hearing healthcare on your behalf.

YOUR RIGHTS REGARDING YOUR HEARING HEALTH INFORMATION

1. **Communications - you can request that we communicate with you about your hearing health related issues in a particular manner or in a particular location.** For instance you may request that we contact you at home rather than work or communicate through a family member that you designate. We will do as much as we can to accommodate your reasonable requests.

2. **You can request a restriction in our use or disclosure of you hearing health information for treatment, payment, or health care operations.** Also, you have the right to request that we restrict our disclosure of your hearing health information to only certain individuals involved in your care or the payment for your care such as family members or friends. We are not required to agree to your request, however, if we do agree, we are bound by our agreement except when otherwise required by law, in emergencies, or when the information is necessary to treat you.

3. **You have the right to inspect and obtain a copy of your hearing health records that is contained in a designated records set that may be used to make decisions about you.** You may submit your request in writing and submit it to our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801

4. **You may ask us to amend your hearing health record if you believe it is incorrect or incomplete and as long as the information is kept for our use.** To request an amendment, your request must be in writing and submitted to our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801. You must present us with clear reasons that support your request for amendment.

5. **You are entitled to receive a copy of this Notice of Privacy Practices.** You may ask us to give you a copy of this notice at any time. To obtain a copy of this notice, contact our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801

6. **You have the right to file a privacy complaint if you believe your privacy rights have been violated.** You may file a complaint with our facility or the Secretary of the U.S. Department of Health and Human Services. To file a complaint with us contact our Privacy Officer, Jo Ellen Pape at 101 North Main Street, DuBois, PA 15801. All complains must be in writing. You will not be penalized for filing a complaint.

7. **You have the right to provide an authorization for other uses and certain disclosures of your hearing health information that are for reasons *other than treatment, payment, or healthcare operations.*** M.E. Jones Hearing Instruments will obtain your written authorization for uses and disclosures that are not identified by this notice or permitted under applicable law.

NOTICE OF CANCELLATION

Date: 6-15-04

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OF SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OF IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO:

M.E. JONES HEARING INSTRUMENTS, AT 101 N. MAIN STREET, DUBOIS, PA 15801, NOT LATER THAN MIDNIGHT OF 6/18/04.
(DATE)

I HEREBY CANCEL THIS TRANSACTION.

(BUYER'S SIGNATURE)

Eleanor Halasy-Wisher
ACKNOWLEDGEMENT OF COPY

(DATE)

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

TOM CORBETT
ATTORNEY GENERAL

www.attorneygeneral.gov

Office Use Only Investigator: Code 1 Code 2
Complaint #
F05-0338TBS

Bureau of Consumer Protection
171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 471-7831

Tom Leete
YOUR NAME

502 E. Maple Street
ADDRESS

Coudersport | PA | 16915 | Potter
CITY | STATE | ZIP CODE | COUNTY

HOME PHONE NUMBER | 274-8627 BEST NUMBER TO CALL DURING THE DAY

M.E. Jones Hearing Aids
NAME OF BUSINESS COMPLAINT IS AGAINST

NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 N. Main St., P.O. Box 668
ADDRESS

DuBois | PA | 15801 | Clearfield
CITY | STATE | ZIP CODE | COUNTY

PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids	11/28/03	$4,400.00

To what other agencies have you complained? _____

What action was taken? _____

Have you retained an attorney? ☐ Yes ☐ No
If yes, please provide your attorney's name, address and telephone number

Have you filed a court action? ☐ Yes ☐ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

Your Age:
- ☐ 18-29
- ☐ 30-44
- ☐ 45-59
- ☑ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☐ Other- Please Specify:

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

Paid $4,400.00 on November 28, 2003 for a pair of hearing aids that were never delivered.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Refund $4,400.00.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

YOUR SIGNATURE **DATE**

M 303/900 Ebens 802

4-2005-0317

RECEIVED

JAN 21 2005

Office of Attorney General

OFFICE OF THE DISTRICT ATTORNEY
OF POTTER COUNTY
POST OFFICE BOX 123
1 EAST THIRD STREET
COUDERSPORT, PENNSYLVANIA 16915
TELEPHONE 814-274-8174
FAX 814-274-8839

JEFF LEBER
DISTRICT ATTORNEY

ANDY J. WATSON
ASSISTANT DISTRICT ATTORNEY

ANDREA BOWERS
ASSISTANT DISTRICT ATTORNEY
JUVENILE DIVISION

January 18, 2005

Office of Attorney General
Bureau of Consumer Protection
132 Kline Plaza
Harrisburg, PA 17104

Re: M. E. Jones Hearing Instruments/Leete

Dear Deputy Donaghue:

One of my constituents, Tom Leete, paid $4400.00 for a pair of hearing aids that were not delivered by the above named company. I noted from an old newspaper article that the victim had provided that the Bureau of Consumer Affairs had addressed this issue. Mr. Leete apparently entered into the agreement to purchase these hearing aids and paid for them on November 28, 2003. Is this incident one that comes under the umbrella of any settlement that you may have had, or could this a matter that is once again subject to a contempt petition against the supplier of these hearing aids?

By copy of this letter I will advise Clearfield County District Attorney, Bill Shaw, of this situation and ask his advise as to anything that may be happening in Clearfield County relative to this business.

Thanks for your help and please advise if you require anything further from this office.

Respectfully,

Jeff Leber
District Attorney

JL/ln

cc: Tom Leete
502 Maple Street
Coudersport, PA 16915

Honorable William A. Shaw, Jr.
Clearfield County District Attorney
230 East Market Street – Suite 210
Clearfield, PA 16830

PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

CONSUMER COMPLAINT FORM

RECEIVED
SEP 28 2004

www.attorneygeneral.gov

Office of Attorney General
Bureau of Consumer Protection
171 Lovell Avenue
Suite 202
Ebensburg, PA 15931
(814) 471-1831

Office Use Only Investigator:
Complaint # F04-3118 TBS

Code 1 303

Code 2 820 802 815

Thomas E. Smith
YOUR NAME

5088 Walnut Street
ADDRESS

Everett	PA	15537	Bedford
CITY	**STATE**	**ZIP CODE**	**COUNTY**

(814) 623-2348 (814) 623-2348
HOME PHONE NUMBER **BEST NUMBER TO CALL DURING THE DAY**

M.E. Jones Hearing Instruments
NAME OF BUSINESS COMPLAINT IS AGAINST

Mark E. Jones
NAME OF OWNER OR OTHER INDIVIDUAL TO WHOM YOU COMPLAINED

101 North Main Street, P.O. Box 686
ADDRESS

DuBois,	PA	15801	
CITY	**STATE**	**ZIP CODE**	**COUNTY**

(814) 371-6401 or 1-800-223-3341
PHONE

PRODUCT(S) OR SERVICE(S) PURCHASED	DATE OF PURCHASE	PURCHASED PRICE
Hearing Aids		$2,800.00

To what other agencies have you complained? None

What action was taken?

Have you retained an attorney? ☒ Yes ○ No
If yes, please provide your attorney's name, address and telephone number

Dwight G. Diehl, Esquire

117 South Juliana Street, Bedford, PA 15522 (814) 623-2513

Have you filed a court action? ☒ Yes ○ No
If yes, please state **WHEN, WHERE** and **WHAT** decision was made?

District Court 57-3-02, H. Cyril Bingham, Jr.

3691 Business 220, Suite 24, Bedford, PA 15522 - Default Judgment

Your Age:
- ○ 18-29
- ○ 30-44
- ○ 45-59
- ☒ 60 or older

How did you find out about us:
- ☐ Visited Office
- ☐ Attended County/ Senior Fair or Speaking Engagement
- ☐ State Legislator/ Agency
- ☐ News Story
- ☐ Internet
- ☒ Other- Please Specify: Your office contacted me.

(This information will be used for Statistical & Enforcement Purposes Only)

1-800-441-2555

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Please explain your complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

See Attached

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

Repay my deposit of $2,800.00 and court costs of $96.00.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it may be used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

Thomas C. Smith

YOUR SIGNATURE

9-21-04

DATE

In May of 2003, I went to the Clark Building in Bedford for a free hearing test sponsored by M.E. Jones hearing company. They asked me a series of questions. One question they asked me was what my occupation was. I told them I was a truck driver. When they found that out they told me I would never pass my next DOT physical exam because I would fail the hearing part of the exam.

I agreed to be fitted for the hearing aids. They required me to pay half down to place the order which was $2800.

A few weeks later, the company called and said they were unhappy with the way the impressions came out. They made arrangements to come to the house and make new ones. When they came they made 2 or 3 new impressions. Sometime later, they called and said they had them done and wanted to bring them. When they delivered the hearing aids the left one did not fit. It felt very uncomfortable. I told them up front I didn't like how it was fitting but they insisted that I tried it for awhile. I refused to do that. I told them there was was no use for me to do that because I would not wear it if it didn't feel right. He agreed to take it back and try to fix it. He said he would bring it back when he fixed them.

I waited about 6 months and he never returned so I started making phone calls. I never got a hold of anyone with the hearing aid company. I would talk with a girl named Richele. She would always tell me they were unavailable due to that they were out of the office, with another client, on the phone or on vacation. No one would ever return my phone calls. I know I tried between 30 and 40 times.

I was tired of waiting so I tried to cancel the order through certified mail all I was asking for was my refund of $2800.

In the meantime, I took my DOT physical and passed it without any problems.

After 13 months of waiting and never hearing anything back from them I decided to file a lawsuit.

R.

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES, Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone 814-371-6401 or 1-800-223-3341

DISCLOSURE AGREEMENT

NAME Thomas E. Smith AGE 69

ADDRESS 5088 Walnut Lane PHONE (814) 623-2348

CITY Everett STATE PA ZIP 15537

I MAY RETURN THIS (THESE) HEARING INSTRUMENT (S) TO THE COMPANY WITHIN THIRTY (30) DAYS OF DELIVERY. THEY MUST BE RETURNED IN THE SAME CONDITION AS DELIVERED TO ME LESS NORMAL WEAR AND TEAR. I UNDERSTAND THAT I WILL BE RESPONSIBLE FOR FEES IN CONNECTION WITH THIS (THESE) HEARING INSTRUMENT (S). I WILL RECEIVE A REFUND WITHIN THIRTY (30) DAYS OF THE RETURN OF THIS HEARING INSTRUMENT (S) OF THE TOTAL MONIES PAID LESS THE FEES OUTLINED BELOW.

4-13-04 Cancelled agreement. Thomas E. Smith

RIGHT INSTRUMENT		LEFT INSTRUMENT	
CANCELLATION $	150.00	CANCELLATION $	150.00
FITTING/DISPENSING $	200.00	FITTING/DISPENSING $	200.00
IMPRESSION FEE $	35.00	IMPRESSION FEE $	35.00
TOTAL $	385.00	TOTAL $	385.00

I HAVE READ AND UNDERSTAND THIS STATEMENT AND ANY QUESTIONS I HAD ABOUT IT WERE ANSWERED TO MY SATISFACTION.

X Thomas E. Smith
CUSTOMER'S SIGNATURE — DATE 5/14/03

Jon R. Anderson 2553
REGISTRANT'S SIGNATURE — DATE 5/14/03

M.E. JONES HEARING INSTRUMENTS

MARK E. JONES Dealer
101 N. Main Street
P.O. Box 686
DuBois, Pennsylvania 15801
Phone: 814-371-6401 or 1-800-223-3341

Date: 5/14/03

Name: THOMAS E. SMITH Age: 64 5-15-03

Address: 5088 WALNUT LANE Phone: (814) 623-2347

City: EVERETT State: PA

Zip Code: 15537 County: BEDFORD New X Used _____ Reconditioned _____

Manufacturer	Model	Active Side	Serial Number(s)	Battery Size	Access
MSI CIC	DIG	RT.			
	DIG	LF.			

Full Hearing Aid Price	6000 00
Includes Impression Fee 70 Fitting & Dispensing Fee 400	
	400 00
Subtotal VISA	5600 00
Down Payment 4264 2951 8211 5703 04/06	2800 00
Balance Due ON DELIVERY	2800 00

GUARANTEE

M.E. JONES HEARING INSTRUMENTS GUARANTEES EACH OF ITS HEARING AIDS AGAINST ANY DEFECT IN MATERIAL OR WORKMANSHIP FOR A PERIOD OF 2 YEAR(S) FROM DATE OF PURCHASE. ALL NECESSARY REPAIRS AND REPLACEMENTS, NOT INCLUDING BATTERIES OR CORD, WILL BE MADE PROMPTLY AND WITHOUT CHARGE DURING THE GUARANTEE PERIOD WHEN RETURNED TO THIS OFFICE OR OTHER AUTHORIZED AGENT. THIS DOES NOT APPLY TO DAMAGE RESULTING FROM ACCIDENT, UNAUTHORIZED ALTERATION, MISUSE OR ABUSE TO HEARING AID; OR CORROSION CAUSED BY DEFECTIVE BATTERIES OR CELLS.

IF THE INSTRUMENT OR ADJUSTMENT TO THE INSTRUMENT IS ALTERED BY ANYONE OTHER THAN AN AGENT FOR M.E. JONES HEARING INSTRUMENTS, ALL WARRANTIES WILL BE IMMEDIATELY VOIDED.

IF YOUR RIGHTS ARE VIOLATED, YOU MAY CONTACT THE STATE BUREAU OF CONSUMER PROTECTION OR THE PENNSYLVANIA DEPARTMENT OF HEALTH IN HARRISBURG, OR YOUR LOCAL DISTRICT ATTORNEY.

THE PURCHASER HAS BEEN ADVISED AT THE OUTSET OF HIS RELATIONSHIP WITH THE HEARING AID DEALER THAT ANY EXAMINATION OR REPRESENTATION MADE BY A REGISTERED HEARING AID DEALER AND FITTER IN CONNECTION WITH THE PRACTICE OF FITTING AND SELLING OF THIS HEARING AID, IS NOT AN EXAMINATION, DIAGNOSIS, OR PRESCRIPTION BY A PERSON LICENSED TO PRACTICE MEDICINE IN THIS COMMONWEALTH AND THEREFORE MUST NOT BE REGARDED AS MEDICAL OPINION.

THIS HEARING AID SHALL REMAIN THE PROPERTY OF M.E. JONES HEARING INSTRUMENTS UNTIL PAID IN FULL.

I HAVE BEEN GIVEN THE USER INSTRUCTION BOOKLET AND HAVE ORALLY REVIEWED IT AND HAVE HAD THE OPPORTUNITY TO READ THE STATEMENT OF FDA WAIVER ( ). I, THE USER HAVE NOT IN ANY WAY BEEN ENCOURAGED TO WAIVER A MEDICAL EVALUATION ( ).

☐ IN THE HOME FITTINGS - YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.

This 14 Day of MAY year 2003 Purchaser: K. Thomas c/o Smith

In presence of:

Countersigned: Jon V. Anderson Co-purchaser: _____

Consultant and Registration Number: JON V. ANDERSON 2553

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF: BEDFORD

NOTICE OF JUDGMENT/TRANSCRIPT CIVIL CASE

Mag. Dist. No.: 57-3-02
DJ Name: Hon. H. CYRIL BINGHAM, JR.
Address: 3691 BUSINESS 220, SUITE #24
BEDFORD, PA 15522-1131
Telephone: (814) 623-6918

PLAINTIFF: NAME and ADDRESS
SMITH, THOMAS E.
5088 WALNUT LANE
EVERETT, PA 15537

VS.

DEFENDANT: NAME and ADDRESS
M.E. JONES HEARING INSTRUMENTS, ET
101 N MAIN ST
C/O MARK E. JONES
DUBOIS, PA 15801

THOMAS E. SMITH
5088 WALNUT LANE
EVERETT, PA 15537

Docket No.: CV-0000113-04
Date Filed: 6/16/04

THIS IS TO NOTIFY YOU THAT:

Judgment: DEFAULT JUDGMENT PLTF

[X] Judgment was entered for: (Name) SMITH, THOMAS E.

[X] Judgment was entered against: (Name) M.E. JONES HEARING INSTRUMENTS

in the amount of $ 2,896.00 on: (Date of Judgment) 8/24/04

[ ] Defendants are jointly and severally liable. (Date & Time) _____

[ ] Damages will be assessed on:

[ ] This case dismissed without prejudice.

[ ] Amount of Judgment Subject to Attachment/42 Pa.C.S. § 8127 $ _____

[ ] Portion of Judgment for physical damages arising out of residential lease $ _____

Amount of Judgment	$ 2,800.00
Judgment Costs	$ 96.00
Interest on Judgment	$ .00
Attorney Fees	$ .00
Total	$ 2,896.00
Post Judgment Credits	$
Post Judgment Costs	$
Certified Judgment Total	$

ANY PARTY HAS THE RIGHT TO APPEAL WITHIN 30 DAYS AFTER THE ENTRY OF JUDGMENT BY FILING A NOTICE OF APPEAL WITH THE PROTHONOTARY/CLERK OF THE COURT OF COMMON PLEAS, CIVIL DIVISION. YOU MUST INCLUDE A COPY OF THIS NOTICE OF JUDGMENT/TRANSCRIPT FORM WITH YOUR NOTICE OF APPEAL.

EXCEPT AS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE FOR DISTRICT JUSTICES, IF THE JUDGMENT HOLDER ELECTS TO ENTER THE JUDGMENT IN THE COURT OF COMMON PLEAS, ALL FURTHER PROCESS MUST COME FROM THE COURT OF COMMON PLEAS AND NO FURTHER PROCESS MAY BE ISSUED BY THE DISTRICT JUSTICE .

UNLESS THE JUDGMENT IS ENTERED IN THE COURT OF COMMON PLEAS, ANYONE INTERESTED IN THE JUDGMENT MAY FILE A REQUEST FOR ENTRY OF SATISFACTION WITH THE DISTRICT JUSTICE IF THE JUDGMENT DEBTOR PAYS IN FULL, SETTLES, OR OTHERWISE COMPLIES WITH THE JUDGMENT.

8-24-04 Date _____, District Justice

I certify that this is a true and correct copy of the record of the proceedings containing the judgment.

_____ Date _____, District Justice

My commission expires first Monday of January, 2010 . SEAL

AOPC 315-03 DATE PRINTED: 8/24/04 10:30:13 AM

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

2cc Attys
B. Creany
F. Donaghue
J. DuBois
D. Hopkins
J. Ryan

FILED
01 3:57 PM
MAR 04 2005
William A. Shaw
Prothonotary/Clerk of Courts

ORDER

NOW, this 4th day of March, 2005, this being the date set for hearing on Petition to Withdraw as Counsel filed on behalf of Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, and Marketing Specialists, Inc., it is the ORDER of this Court that David J. Hopkins, Esquire, be and is hereby permitted to withdraw as counsel for Defendant Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, and Marketing Specialists, Inc. David J. Hopkins, Esquire, shall file a praecipe with the Prothonotary of Clearfield County to withdraw as counsel.

It is the further ORDER of this Court that all

parties shall comply with the Court's Order of February 25, 2005, by filling appropriate briefs on or before April 30, 2005. No further extension of time shall be granted.

BY THE COURT,

Paul E. Cherry

Judge

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Order rescheduling the Petition of David J. Hopkins, Esquire, to Withdraw as Counsel for March 4, 2005 was forwarded on the 6th day of January, 2005, and by U. S. Mail, postage prepaid, to all counsel of record, addressed as follows:

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

FILED NO CC
m/12:35 BK
MAR 07 2005

William A. Shaw
Prothonotary/Clerk of Courts

John R. Ryan, Esquire
Colavecchi, Ryan & Colavecchi
221 East Market Street
P.O. Box 131
Clearfield, PA 16830

Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

J. G. Pannette Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Respectfully submitted,

David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Please withdraw my appearance for the Defendant, Joseph G. Pannette, individually and d/b/a J. G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. in the above-captioned matter.

Date: 3-4-05

David J. Hopkins, Esquire

FILED no cc
01:43 BH
MAR 09 2005
Copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
(CIVIL DIVISION)

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiffs	:	CIVIL DIVISION - EQUITY
vs.	:	No. 01-1059 C.D.
MARK E. JONES, individually and d/b/a M. E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J. G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of March, 2005, a true and correct copy of the within Withdrawal of Appearance has been served on all parties of record by United States Mail, first-class postage prepaid.

E. Barry Creany
Senior Deputy Attorney General
Office of the Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois, Esquire
190 W. Park Avenue, Suite #5
DuBois, PA 15801

John R. Ryan, Esquire
Belin & Kubista
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

J. G. Pannette Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

David J. Hopkins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL DIVISION
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

FILED NO CC
m/10:43BK
MAY 06 2005
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copies of the foregoing Brief in Support of the Commonwealth's Amended Petition for Contempt was forwarded on the 29th day of April, 2005, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by Certified/Return Receipt Requested, First Class U.S. Mail, postage prepaid, to all counsel of record addressed as follows:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

Joseph G. Pannette, *Pro Se*
101 North Main Street
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL GERALD J. PAPPERT	:	
V.	:	NO. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

FILED ICC Attys:
0/2:51/BOL Creary
SEP 02 2005 DuBois
William A. Shaw Hopkins
Prothonotary/Clerk of Courts Ryan
D. Mikesell
Law Library
J. Pannette
101 N. Main St. Box 886
DuBois, PA 15801
J.G. Pannette Marketing Specialists, Inc. and
Marketing Specialists, Inc.
(6K)

OPINION AND ORDER

AND NOW, this 1st day of September, 2005, following taking of testimony relative the Commonwealth's Petition for Contempt and Amended Petition for Contempt, the Court being in timely receipt of the Commonwealth's Brief; the Court noting that all Defendants having failed to comply with the Court's Order of February 25, 2005, by failing to file a Brief in this matter and upon consideration of the same, the Court is satisfied that the Defendants are in Contempt for failing to comply with the Court's Order of July 20, 2001. The Court is further satisfied that the Defendants have violated the Hearing Aid Sales Law, §503.1, §504.1, §310, §403, §503. In addition, the Court is satisfied the Defendants have violated §201-3 and §201-7 of the Consumer Protection Law. The Court has found Defendants have committed sixteen separate violations of

§201-3 by engaging in conduct prohibited by §201-2 (4)(xiv). The Court hereby imposes a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Eighty Thousand ($80,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have engaged in conduct which supports one violation of §201-3 by engaging in conduct prohibited by §201-2 (4)(viii) and (xxi). The Court hereby imposes a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars.

The Court further finds that the Defendants have engaged in conduct which supports eight separate violations of §201-3 by engaging in conduct prohibited by §201-2 (4)(xi). The Court hereby assesses a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Forty Thousand ($40,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have engaged in conduct which supports at least twelve separate violations of §201-7. The Court hereby assesses a penalty in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Sixty Thousand ($60,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have committed one violation of §201-3 by engaging in conduct prohibited by §201-2 (4)(xxi). The Court hereby imposes a penalty in the amount of Five Thousand ($5,000.00) for said violation.

It is the further ORDER of this Court that Defendants shall pay restitution in the amount of Thirty Thousand Eight Hundred and Thirty ($30,830.00) Dollars to the various consumers as set forth as Exhibit A.

In imposing penalties in this matter for the Defendants' violations of the Injunction Order, the Court has considered the following factors:

a. The impact or degree of harm the Defendants' practices have had on consumers;

b. The age of the consumers who were victimized by the Defendants;

c. The vulnerability of the consumers victimized by Defendants; and

d. The desire to prevent the Defendant's from retaining the benefits of their conduct which violated the Court's Injunction Order.

The Defendants shall be able to purge themselves of this contempt by payment of the above penalties and restitution.

The Court also finds that the Defendants have engaged in a systematic pattern of violating both the Hearing Aid Sales Law and the Consumer Protection Law and that this conduct targeted a very vulnerable age group of Pennsylvania Consumers. The Court further finds as fact that the Defendants' unfair and deceptive conduct continued up to and even after the final hearing on September 17, 2004. The Defendants have left this Court no other alternative but to prohibit them from engaging in further trade and commerce within the Commonwealth of Pennsylvania pursuant to §201-9.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

CONSUMER	RESTITUTION CLAIM
Barron, Charles E.	$ 3,000.00
Black, Lucille	$ 570.00
Black, Paul	$ 570.00
Claycomb, I. Stanley	$ 4,200.00
Dean, Charlotte	$ 3,000.00
Dille, Garvin A.	$ 3,000.00
Freeman, Robert L.	$ 1,000.00
Kaizer, William J.	$ 2,200.00
McMinn, Ronny	$ 4,000.00
Mock, Clair	$ 4,000.00
Overly, William	$ 570.00
Ritter, William G.	$ 150.00
Williams, Richard	$ 4,000.00
Woodring, H.C.	$ 570.00
TOTAL	$30,830.00

EXHIBIT A

FILED

SEP 0 2 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
	:	**REQUEST FOR RECONSIDERATION**
Vs.	:	
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED 3cc
01:37 BN Atty DuBois
SEP 09 2005 GK
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**MOTION FOR RECONSIDERATION**
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

ORDER

AND NOW, this 12th day of September, 2005, in consideration of Defendant Mark E. Jones Motion for Reconsideration,

IT IS HEREBY ORDERED AND DECREED that a Hearing be scheduled in this matter for the 10th day of October, 2005, at 3:00 o'clock P.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT:

Paul E. Cherry
Judge

FILED

SEP 13 2005 3cc Atty DuBois.
01:47 cm

William A. Shaw
Prothonotary

FILED

SEP 13 2005

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

REQUEST FOR RECONSIDERATION

AND NOW, comes Defendant, MARK E. JONES, by and through his attorney, Jeffrey S. DuBois, Esquire, who files this Request for Reconsideration, and in support thereof avers the following:

1. Defendant Mark E. Jones, requests consideration of the Courts Opinion and Order dated September 1, 2005, and filed September 2, 2005.

2. As set forth in the first paragraph of said Courts Opinion and Order, it states that Defendants "failing to file a Brief in this matter and upon consideration of the same".

3. On or about April of 2005, counsel for Defendant informed the Court, that because of negotiations which were ongoing, and appearing to nearing completion with

the Attorney General's office, would not file a Brief so as to not complicate the issues before the Court or have the Court address issues which would not be necessary.

4. In addition, in furtherance of this, the undersigned addressed a letter to the Court, with a copy to the Attorney General's Office, specifically Attorney Barry Creany, setting forth that negotiations were ongoing with the Attorney General's Office, and the parties were hopefully close to an agreement, and in light of that fact would not be submitting a Brief. A copy of said letter is attached hereto and made a part hereof as Exhibit "A".

5. In fact, not only were negotiations ongoing with the Attorney General's Office, and being close to an agreement, there was also negotiations with the Department of Health at this same point in time.

6. Moreover, prior to this time, Defendant Mark E. Jones, had filed a Cease and Desist Order with this Court, to which the Attorney General's Office concurred, ordering that the business of M.E. Jones transact no more business, and that Jerry Pannette, and all others connected with said business cease from using said name or operating under said name.

7. Therefore, it was clear the stance in which Mark E. Jones was taking, as well as negotiations between the parties.

8. This is further evidenced by the fact that the Attorney General's Office forwarded to the undersigned at the end of May/beginning of June, a written proposed Consent Decree to be entered into between the Attorney General's Office and Mark Jones.

9. Consequently, Mark E. Jones would request a reconsideration of the Court's decision with respect to himself.

10. This is especially true in light of the evidence which was uncontroverted at the various Hearings, which includes:

a. The W-2's evidencing the fact that Mark Jones was an employee of the company;

b. That Jerry Pannette admitted in his own testimony at the Trial that he was the owner of the business, that he controlled all operations of the business, and that he made all of the financial and business decisions with respect to the company, which would include the refunding of monies to the various consumers who are the subject of this case; and,

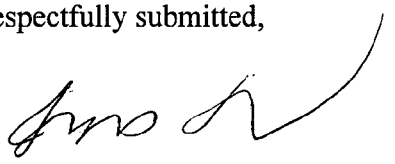
c. That Mark Jones had absolutely no contact with, and never worked on, any of the consumers which are the subject matter of this contempt petition.

11. Based on the above, and the clear records from the Hearings, Defendant Mark Jones' culpability and/or liability is vastly different than that of Defendant Jerry Pannette and Marketing Specialists Inc.

12. In the alternative, because of the fact of the understanding that the undersigned was left with respect to the Briefs, that if the Court requires the same, that Defendant Mark E. Jones be allowed an opportunity to file a Brief in this matter to further expand upon the items set forth above for the Court's consideration in this matter.

WHEREFORE, Defendant Mark E. Jones respectfully requests this Honorable Court to reconsider its decision with respect to Defendant Mark E. Jones, and amend said Opinion and Order with respect to Defendant Mark E. Jones, or in the alternative, to allow time for filing of a Brief before a final decision is made.

Respectfully submitted,



Jeffrey S. DuBois
Attorney for Defendant
Mark E. Jones

JEFFREY S. DuBOIS
Attorney at Law

190 West Park Avenue • Suite #5 • DuBois, PA 15801

Phone: 814-375-5598
Fax: 814-375-8710

E-Mail: jsd.law@verizon.net

May 3, 2005

Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Via: Fax

RE: Commonwealth vs. Mark E. Jones, et al
No. 01-1059-CD

Dear Judge Cherry,

With respect to the Briefs which were due in the above captioned matter, as I had eluded to you earlier, Attorney Barry Creany, on behalf of the Attorney General's Office, and I have just about reached a settlement agreement in the above captioned case. At this point in time, the agreement is being finalized and Attorney Creany has forwarded it on to the Attorney General's Office in Harrisburg for final approval.

I am therefore notifying you so as not to take up the Court's time with respect to a decision concerning my client, Mark E. Jones, in the above captioned matter, and to explain the reason for not submitting a Brief at this time.

If you should have any questions, please feel free to contact me.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: Barry Creany, Esquire (faxed)

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**MOTION FOR RECONSIDERATION**
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of September, 2005, I served a true and correct copy of the within Request for Reconsideration by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois

FILED

SEP 09 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL DIVISION
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

PRAECIPE FOR ENTRY OF JUDGMENT

TO: WILLIAM A. SHAW, PROTHONOTARY

Please enter judgment on the attached Opinion and Order of The Honorable Paul E. Cherry dated September 1, 2005, in favor of the Commonwealth of Pennsylvania in the total amount of $220,830 representing $30,830 in restitution and $190,000 in civil penalties against defendants, Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc., along with the other relief set forth in said Order.

Date: September 12, 2005

Respectfully submitted,

E. Barry Creany
Senior Deputy Attorney General

Attachment

FILED No cc
m/13:30/BL Atty pd. 20.00
SEP 12 2005 Notice to
William A. Shaw Atty DuBois &
Prothonotary/Clerk of Courts Pannette Defs. at
101 N. Main St.
DuBois, PA 15801
Statement to Atty

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA ACTING BY ATTORNEY GENERAL GERALD J. PAPPERT	:	
V.	:	NO. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

OPINION AND ORDER

AND NOW, this 1st day of September, 2005, following taking of testimony relative the Commonwealth's Petition for Contempt and Amended Petition for Contempt, the Court being in timely receipt of the Commonwealth's Brief; the Court noting that all Defendants having failed to comply with the Court's Order of February 25, 2005, by failing to file a Brief in this matter and upon consideration of the same, the Court is satisfied that the Defendants are in Contempt for failing to comply with the Court's Order of July 20, 2001. The Court is further satisfied that the Defendants have violated the Hearing Aid Sales Law, §503.1, §504.1, §310, §403, §503. In addition, the Court is satisfied the Defendants have violated §201-3 and §201-7 of the Consumer Protection Law. The Court has found Defendants have committed sixteen separate violations of

§201-3 by engaging in conduct prohibited by §201-2 (4)(xiv). The Court hereby imposes a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Eighty Thousand ($80,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have engaged in conduct which supports one violation of §201-3 by engaging in conduct prohibited by §201-2 (4)(viii) and (xxi). The Court hereby imposes a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars.

The Court further finds that the Defendants have engaged in conduct which supports eight separate violations of §201-3 by engaging in conduct prohibited by §201-2 (4)(xi). The Court hereby assesses a penalty against said Defendants in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Forty Thousand ($40,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have engaged in conduct which supports at least twelve separate violations of §201-7. The Court hereby assesses a penalty in the amount of Five Thousand ($5,000.00) Dollars per violation or a total amount of Sixty Thousand ($60,000.00) Dollars for said violations.

The Court is further satisfied that the Defendants have committed one violation of §201-3 by engaging in conduct prohibited by §201-2 (4)(xxi). The Court hereby imposes a penalty in the amount of Five Thousand ($5,000.00) for said violation.

It is the further ORDER of this Court that Defendants shall pay restitution in the amount of Thirty Thousand Eight Hundred and Thirty ($30,830.00) Dollars to the various consumers as set forth as Exhibit A.

In imposing penalties in this matter for the Defendants' violations of the Injunction Order, the Court has considered the following factors:

a. The impact or degree of harm the Defendants' practices have had on consumers;

b. The age of the consumers who were victimized by the Defendants;

c. The vulnerability of the consumers victimized by Defendants; and

d. The desire to prevent the Defendant's from retaining the benefits of their conduct which violated the Court's Injunction Order.

The Defendants shall be able to purge themselves of this contempt by payment of the above penalties and restitution.

The Court also finds that the Defendants have engaged in a systematic pattern of violating both the Hearing Aid Sales Law and the Consumer Protection Law and that this conduct targeted a very vulnerable age group of Pennsylvania Consumers. The Court further finds as fact that the Defendants' unfair and deceptive conduct continued up to and even after the final hearing on September 17, 2004. The Defendants have left this Court no other alternative but to prohibit them from engaging in further trade and commerce within the Commonwealth of Pennsylvania pursuant to §201-9.

BY THE COURT,

/s/ Paul E. Cherry

PAUL E. CHERRY,
JUDGE

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 02 2005

Attest.

Prothonotary/
Clerk of Courts

CONSUMER	RESTITUTION CLAIM
Barron, Charles E.	$ 3,000.00
Black, Lucille	$ 570.00
Black, Paul	$ 570.00
Claycomb, I. Stanley	$ 4,200.00
Dean, Charlotte	$ 3,000.00
Dille, Garvin A.	$ 3,000.00
Freeman, Robert L.	$ 1,000.00
Kaizer, William J.	$ 2,200.00
McMinn, Ronny	$ 4,000.00
Mock, Clair	$ 4,000.00
Overly, William	$ 570.00
Ritter, William G.	$ 150.00
Williams, Richard	$ 4,000.00
Woodring, H.C.	$ 570.00
TOTAL	$30,830.00

EXHIBIT A

CERTIFICATE OF SERVICE

I, E. Barry Creany, hereby certify that a true and correct copy of the foregoing Praecipe to Enter Judgment was served by First Class U.S. Mail, postage prepaid, mailed on September 9, 2005, upon the following:

Mr. Mark E. Jones
c/o Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
ATTN : Joseph G. Pannette, President
101 North Main Street
DuBois, PA 15801

Dated: September 12, 2005

E. Barry Creany
Senior Deputy Attorney General

FILED

SEP 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

COPY

NOTICE OF JUDGMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

Commonwealth of Pennsylvania

Vs. No. 2001-01059-CD

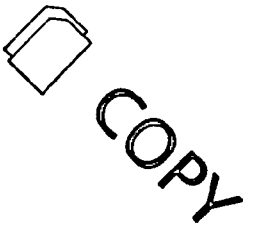
Mark E. Jones, M.E. Jones Hearing Instruments, Joseph G. Pannette, J. G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc., Robert W. Fauls, Richard L. Kerstetter, Ricky A. Pape

To: Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc.

NOTICE is given that a JUDGMENT in the above captioned matter has been entered against you in the amount of $220,830.00 on September, 12, 2005.

William A. Shaw
Prothonotary

_____
William A. Shaw



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY ,
PENNSYLVANIA
STATEMENT OF JUDGMENT

Commonwealth of Pennsylvania
Plaintiff(s)

No.: 2001-01059-CD

Real Debt: $220,830.00 against Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., and Marketing Specialists, Inc. ONLY

Atty's Comm: $

Vs.

Costs: $

Int. From: $

Mark E. Jones, M.E. Jones Hearing Instruments, Joseph G. Pannette, J. G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc., Robert W. Fauls, Richard L. Kerstetter, Ricky A. Pape
Defendant(s)

Entry: $20.00

Instrument: Court-Ordered Judgment

Date of Entry: September 12, 2005

Expires: September 12, 2010

Certified from the record this 12th day of September, 2005.

_____
William A. Shaw, Prothonotary

****

SIGN BELOW FOR SATISFACTION

Received on _____, _____, of defendant full satisfaction of this Judgment, Debt, Interest and Costs and Prothonotary is authorized to enter Satisfaction on the same.

_____
Plaintiff/Attorney

FILED
SEP 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

JEFFREY S. DuBOIS
Attorney at Law

Phone: 814-375-5598
Fax: 814-375-8710

190 West Park Avenue • Suite #5 • DuBois, PA 15801

E-Mail: jsdlaw@verizon.com

May 10, 2004

Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Commonwealth vs. Mark Jones, et. al.

Dear Judge Cherry,

Pursuant to the above captioned matter, I am available on July 27, 2004, for a continued Hearing.

Please let me know if this date is agreeable with all parties.

Thank you for your attention in this matter.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: Barry Creany, Esquire
David Hopkins, Esquire
Mark Jones

JEFFREY S. DuBOIS
Attorney at Law
100 West Park Avenue – Suite #5 – DuBois, PA 15801
PHONE: 814-375-5598
FAX: 814-375-8710
E-Mail: jsd.law@verizon.net

FAX COVER PAGE

DATE: May 10, 2004

TO: Honorable Paul E. Cherry
FAX: 765-7649

FROM: Jeffrey S. DuBois

RE: Commonwealth vs. Jones

Number of pages sent (Including cover page) __2__

Thank you for your attention in this matter!

If you do not receive all of the pages in good condition, please call 814-375-5598.

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contains information from the Jeffrey S. DuBois Law Office, which is confidential and/or legally privileged. The information is intended for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this facsimile information is strictly prohibited, and that the documents should be returned to this firm immediately. In this regard, if you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the return of the original documents to us at no cost to you.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL



RECEIVED
5-13-04

GERALD J. PAPPERT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

May 11, 2004

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

David J. Hopkins, Esquire
HOPKINS HELTZEL LLP
900 Beaver Drive
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, et al.
No. 01-1059-C.D.
Clearfield County

Dear Messrs. DuBois and Hopkins:

Enclosed with this letter is a true and correct copy of the transcript of the William H. Overly deposition that was conducted on December 17, 2003. The transcript and supporting affidavit have been identified as the Commonwealth's Exhibit 22 in the contempt proceeding in the above captioned action.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

Enclosure

cc: Frank T. Donaghue, Chief Deputy Attorney General (w./encl.)
The Honorable Paul E. Cherry (w./encl.)

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
V.	:	NO. 2001-1059-CD
MARK E. JONES, al	:	

ORDER

AND NOW, this 6th day of May, 2004, it is the ORDER of this Court that continuation hearing with regard to Plaintiff's Petition for Contempt is hereby scheduled for Tuesday, July 27, 2004, at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT,

PAUL E. CHERRY,
JUDGE

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

VIA: FACSIMILE AND REGULAR MAIL

May 7, 2004

The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Judge Cherry:

I am writing to confirm that Chief Deputy Attorney General Frank Donaghue and I will be available on Tuesday, July 27, 2004, for a continuation of the hearing on the Petition for Contempt pending in the above-captioned matter.

Thanks for your time and attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

cc: Jeffrey S. DuBois, Esquire
David J. Hopkins, Esquire
John R. Ryan, Esquire
Frank T. Donaghue, Chief Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

EBENSBURG REGIONAL OFFICE
BUREAU OF CONSUMER PROTECTION
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

TELEPHONE NO. (814) 471-1831 **FAX NO.** (814) 471-1840

FAX TRANSMISSION COVER SHEET

Number of Pages, including cover sheet 2

TO The Honorable Paul E Cherry
FAX NO. 765-7649

FROM E Barry Creany, SDAG

TRANSMISSION INFORMATION		CLASSIFICATION		DELIVER
DATE: May 7, 2004		SECRET		RUSH (1 Hour)
TIME: 1:15 pm		CONFIDENTIAL		ROUTINE (Same Day)
BY: Janet		UNCLASSIFIED		

SUBJECT: Commonwealth v. M.E. Jones Hearing Instruments No. 11-1059. C.D.

COMMENTS:

IMPORTANT/CONFIDENTIAL: This communication is intended for the use of the individual or entity to which it is addressed. This message contains information from the Office of Attorney General, Commonwealth of Pennsylvania, which may be privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Receipt of this communication by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

VIA: FACSIMILE AND REGULAR MAIL

May 7, 2004

RECEIVED
5-10-04

The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059-C.D.
Clearfield County

Dear Judge Cherry:

I am writing to confirm that Chief Deputy Attorney General Frank Donaghue and I will be available on Tuesday, July 27, 2004, for a continuation of the hearing on the Petition for Contempt pending in the above-captioned matter.

Thanks for your time and attention to this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

cc: Jeffrey S. DuBois, Esquire
David J. Hopkins, Esquire
John R. Ryan, Esquire
Frank T. Donaghue, Chief Deputy Attorney General

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

VIA: FACSIMILE AND REGULAR MAIL

July 28, 2004

RECEIVED 7-29-04

The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Judge Cherry:

In follow up to your request in Court yesterday I am writing to let you know that both Frank Donaghue and I would be available on Friday, September 17, 2004, for the continuation of the hearing on the above-captioned case.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany

E. Barry Creany
Senior Deputy Attorney General

cc: Jeffrey S. DuBois, Esquire
David J. Hopkins, Esquire
John R. Ryan, Esquire
Frank T. Donaghue, Chief Deputy Attorney General

Jeff D 16-17
or
Frank Donaghue
Hopkins OK

*

9-15, 16, 17 Jones

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

EBENSBURG REGIONAL OFFICE
BUREAU OF CONSUMER PROTECTION
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

TELEPHONE NO. (814) 471-1831 **FAX NO.** (814) 471-1840

FAX TRANSMISSION COVER SHEET

Number of Pages, including cover sheet 2

TO The Honorable Paul E. Cheslock
FAX NO. 765-7649

FROM E. Barry Creany, SDAG

TRANSMISSION INFORMATION		CLASSIFICATION		DELIVER
DATE: July 28, 2004		SECRET		RUSH (1 Hour)
TIME: 4:00 PM		CONFIDENTIAL		ROUTINE (Same Day)
BY: Janet		UNCLASSIFIED		

SUBJECT: Commonwealth v. ME Jones
No. 01-1059-C.D.

COMMENTS:

IMPORTANT/CONFIDENTIAL: This communication is intended for the use of the individual or entity to which it is addressed. This message contains information from the Office of Attorney General, Commonwealth of Pennsylvania, which may be privileged, confidential and exempt from disclosure under applicable law. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Receipt of this communication by anyone other than the intended recipient is not a waiver of any attorney-client or work-product privilege.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

GERALD J. PAPPERT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Ave., Suite 202
Ebensburg, PA 15931
(814) 471-1831
FAX (814) 471-1840

VIA: FACSIMILE AND REGULAR MAIL

July 28, 2004

The Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

RE: Commonwealth v. M.E. Jones Hearing Instruments
No. 01-1059 C.D.
Clearfield County

Dear Judge Cherry:

In follow up to your request in Court yesterday I am writing to let you know that both Frank Donaghue and I would be available on Friday, September 17, 2004, for the continuation of the hearing on the above-captioned case.

Thanks for your attention to this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

cc: Jeffrey S. DuBois, Esquire
David J. Hopkins, Esquire
John R. Ryan, Esquire
Frank T. Donaghue, Chief Deputy Attorney General

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	NO. 01-1059-CD
V.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A PAPE	:	

ORDER

AND NOW, this 12th day of September, 2005, the Court noting that Defendants, Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape did not appear nor did they participate in the hearings conducted relative to the Commonwealth's Petition and Amended Petition for Contempt, it is the ORDER of this Court that the relief set forth in this Court's Opinion and Orders of September 1, 2005 shall be and is hereby AMENDED to pertain only to the Defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc.

FILED
01 4:00 BL
SEP 12 2005
William A. Shaw
Prothonotary/Clerk of Courts

cc Attys: Creary
Ryan
DuBois
Pannette - 101 N. Main St.
DuBois, PA 15801

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED

SEP 12 2005

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
Vs.	:	**PRAECIPE TO STRIKE THE JUDGMENT**
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

Judge said he won't sign this — return to file?

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ORDER

AND NOW, this _____ day of September, 2005, in consideration of Defendant Mark E. Jones Praecipe to Strike the Judgment,

IT IS HEREBY ORDERED AND DECREED that said Judgment is stricken as it pertains to Defendant, Mark E. Jones.

BY THE COURT:

_____
Judge

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

JUDGMENT STRICKEN

The Judgment of September 12, 2005, with respect to Defendant, Mark E. Jones, is hereby stricken.

William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
	:	**PRAECIPE TO STRIKE THE JUDGMENT**
Vs.	:	
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED 3cc
01 9:00 BOI Atty DuBois
SEP 14 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

PRAECIPE TO STRIKE THE JUDGMENT

To the Prothonotary:

Please strike the Judgment with respect to Defendant, Mark E. Jones, which was entered on September 12, 2005, as the same, as it pertains to Defendant Mark E. Jones, is premature in light of the date of the Court's Order as well as a previously filed Request for Reconsideration.

Jeffrey S. DuBois, Esquire
Attorney for Defendant,
Mark E. Jones

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 19th day of September, 2005, I served a true and correct copy of the within Praecipe to Strike the Judgment by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION FOR CONTINUANCE**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
14TH FLOOR STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANT

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS

JEFFREY S. DuBOIS, ESQUIRE
ATTORNEY I.D. NO. 62074
190 W. PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-5598

FILED no cc
m/11:21/30/
SEP 20 2005 GW

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

MOTION FOR CONTINUANCE

AND NOW, this 19th day of September 2005, comes the Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett, Jr., and files this Motion of Continuance and in support thereof avers the following:

1. On September 19, 2005, the Commonwealth received a certified copy of a Request for Reconsideration filed on behalf of Mark E. Jones which was accompanied by an Order scheduling a hearing for Monday, October 10, 2005, at 3:00 p.m.
2. The Commonwealth received a copy of the Request for Reconsideration filed by Jeffrey S. DuBois, Esquire, on Wednesday, September 14, 2005, and had not yet, but intends to file a response to said Request for Reconsideration.
3. Counsel for the Commonwealth is unavailable and will be unable to attend the hearing scheduled for October 10, 2005, due to a previous commitment.

4. Jeffrey S. DuBois, Counsel for Defendant Mark E. Jones, consented to the Commonwealth's request for a continuance by telephone on September 19, 2005.

WHEREFORE, the Commonwealth of Pennsylvania respectfully requests this Honorable Court to reschedule the hearing on Defendant Mark E. Jones' Request for Reconsideration.

Date: September 19, 2005

Respectfully submitted,

THOMAS W. CORBETT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that true and correct copies of the foregoing Motion for Continuance was forwarded on the 19th day of September 2005, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to:

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite #5
DuBois, PA 15801

E. Barry Creany
Senior Deputy Attorney General

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL ACTION - EQUITY NO. 01-1059-C.D.

ORDER

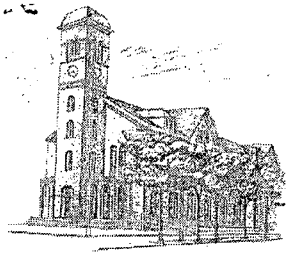
AND NOW, this 20th day of September 2005, upon consideration of the Motion for Continuance filed by the Commonwealth of Pennsylvania, IT IS HEREBY ORDERED AND DECREED that the hearing previously scheduled for October 10, 2005, on Mark E. Jones' Request for Reconsideration is hereby continued and a hearing shall be conducted on the 26th day of October, 2005, at 11:00 o'clock a.m. in Courtroom No. 2 in the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

Paul E. Cherry

FILED 6cc
013:50 BL Atty Creany
SEP 20 2005 GR

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

CERTIFICATE OF SERVICE

A certified, true and attested copy of the Order scheduling a hearing on the Request for Reconsideration was served upon the following by sending the by First Class U.S. Mail, postage prepaid, on September 26, 2005:

Jeffrey S. DuBois, Esquire
Counsel for Mark E. Jones
190 West Park Avenue, Suite #5
DuBois, PA 15801

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
ATTN : Joseph G. Pannette, President
101 North Main Street
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

FILED
m/10:30/BL
SEP 27 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL ACTION - EQUITY NO. 01-1059-C.D.

ORDER

AND NOW, this 20th day of September 2005, upon consideration of the Motion for Continuance filed by the Commonwealth of Pennsylvania, IT IS HEREBY ORDERED AND DECREED that the hearing previously scheduled for October 10, 2005, on Mark E. Jones' Request for Reconsideration is hereby continued and a hearing shall be conducted on the 26th day of October, 2005, at 11:00 o'clock a.m. in Courtroom No. 2 in the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

/s/ Paul E. Cherry

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 20 2005

Attest.

Prothonotary/
Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **PRELIMINARY OBJECTIONS**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
14TH FLOOR STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANT

MARK E. JONES, individually and d/b/a
M.E. JONES HEARING INSTRUMENTS

JEFFREY S. DuBOIS, ESQUIRE
ATTORNEY I.D. NO. 62074
190 W. PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-5598

FILED NO CC
m/10:30 BL
SEP 27 2005 GK

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

PRELIMINARY OBJECTIONS

AND NOW, comes the Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett, Jr., Plaintiff in the above-captioned matter and files the following Preliminary Objections to the Request for Reconsideration filed on behalf of Defendant Mark E. Jones and in support thereof sets forth the following:

BACKGROUND

1. On September 1, 2005, the Honorable Paul E. Cherry entered an Opinion and Order finding Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., in contempt of court for violations a Preliminary Injunction that was entered against said defendants in July 2001.

2. Defendant Mark E. Jones, through his counsel, Jeffrey S. DuBois, filed a document entitled Request for Reconsideration on or about September 9, 2005.

3. On September 14, 2005, the Plaintiff received a copy of the Request for Reconsideration which was accompanied by a Certificate of Service indicating that the same was mailed on September 12, 2005. A true and correct copy of said Request for Reconsideration is attached hereto and labeled Exhibit "A".

4. Said Request for Reconsideration contained averments of fact not appearing of record in the above-captioned action, however, the Request for Reconsideration was not accompanied by a verification required under Pennsylvania Rules of Civil Procedure No. 1024. Pa. R.C.P. No. 1024.

5. Said Request for Reconsideration was not accompanied by a Notice to Defend pursuant to Pennsylvania Rules of Civil Procedure No. 1018.1 nor was it accompanied by a Notice to Plead pursuant to Pennsylvania Rules of Civil Procedure No. 1361. Pa. R.C.P. Nos. 1018.1 and 1361.

6. Said Request for Reconsideration alleged conduct and statements allegedly made in the course of compromised negotiations which are not admissible pursuant to Rule 408 of the Pennsylvania Rules of Evidence. Pa. R.E. 408.

FAILURE OF PLEADING TO CONFORM RULE OF COURT

7. Paragraphs 1 through 6 of the foregoing Preliminary Objections are incorporated herein by reference.

8. The Request for Reconsideration pleading filed by Defendant Mark E. Jones contained averments of fact not appearing of record in the action but failed to contain a verification required by Pennsylvania Rules of Civil Procedure No. 1024. Pa. R.C.P. No. 1024.

9. The Request for Reconsideration pleading filed by Defendant Mark E. Jones did not contain a Notice to Defend or Notice to Plead as required by Pennsylvania

Rules of Civil Procedure Nos. 1018.1 and 1361. Pa. R.C.P. Nos. 1018.1 and 1361.

10. The Request for Reconsideration pleading filed by Defendant Mark E. Jones is not a pleading permitted pursuant to the Pennsylvania Rules of Civil Procedure for purposes of challenging the Order entered by this Honorable Court on September 1, 2005, because it does not satisfy the requirements of a Motion for Post-Trial Relief governed by Pennsylvania Rules of Civil Procedure Nos. 227.1 and 227.3 (Pa. R.C.P. Nos. 227.1 and 227.3) Specifically, said Request for Reconsideration does not:

A. Set forth grounds for post-trial relief and identify when the same were raised at trial as required by Pa. R.C.P. No. 227.1(b)(1);

B. Specify the grounds for post-trial relief and state the manner in which the grounds were asserted by Defendant Mark E. Jones at trial as required by Pa. R.C.P. No. 227.1(b)(2);

C. Contain a certificate of service or verified allegation establishing that Defendant Mark E. Jones served a copy promptly upon the trial judge as required by Pa. R.C.P. No. 227.1(f); and,

D. Contain a request designating the portion of the transcribed testimony of the hearings before this Honorable Court that would enable this Honorable Court to dispose of the Request for Reconsideration as required by Pa. R.C.P. No. 227.3 and, therefore, said transcripts are deemed unnecessary to the disposition of the Request for Reconsideration pursuant to Pa. R.C.P. No. 227.3 despite the fact that said Request for Reconsideration makes allegations as to evidence "at various Hearings" and contains other unverified allegations regarding the record of the proceedings which gave rise to this Court's Order of September 1, 2005.

11. The Request for Reconsideration filed by Defendant Mark E. Jones contains scandalous or impertinent matter as follows:

A. Paragraph 6 of said Request for Reconsideration alleges that the Attorney General's Office concurred in Defendant Mark E. Jones' attempt to file a document fashioned as a "Cease and Desist Order" in these proceedings. Clearly said "Cease and Desist Order" should not have been considered by this Honorable Court in the context of the Commonwealth's proceedings on the Amended Petition for Contempt, the Commonwealth opposed this Honorable Court's consideration of said "Cease and Desist Order", and this Honorable Court never entered said "Cease and Desist Order" in this docket or in any other docket that the Commonwealth has been made aware of.

B. Said Request for Reconsideration contained unverified allegations relating to negotiations, offers or promises to compromise a claim which are inadmissible under Rule 408 of the Pennsylvania Rules of Evidence which imply that the Office of Attorney General was not acting in good faith in the course of pursing the relief that this Honorable Court granted in its Order of September 1, 2005. Pa. R.E. 408.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to deny and dismiss the Request for Reconsideration pleading filed by Defendant Mark E. Jones.

INSUFFICIENT SPECIFITY OF PLEADING

12. Paragraphs 1 through 6 of the foregoing Preliminary Objections are incorporated herein by reference.

13. The Request for Reconsideration filed by Defendant Mark E. Jones contains unverified statements of fact, alleges facts that are inadmissible under the Pennsylvania Rules of Evidence and do not meet the requirements of a Motion for Post-Trial Relief as set forth in Rules 227.1 and 227.3 of the Pennsylvania Rules of Civil Procedure. Pa. C.R.P. Nos. 227.1 and 227.3.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to deny and dismiss the Request for Reconsideration pleading filed by Defendant Mark E. Jones.

LEGAL INSUFFICIENCY OF PLEADING

14. Paragraphs 1 through 6 of the foregoing Preliminary Objections are incorporated herein by reference.

15. The Request for Reconsideration filed by Mark E. Jones does not contain any admissible, verifiable facts upon which this Honorable Court can grant relief.

WHEREFORE, the Commonwealth respectfully requests this Honorable Court to deny and dismiss the Request for Reconsideration pleading filed by Defendant Mark E. Jones.

Date: September 26, 2005

Respectfully submitted,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
	:	**REQUEST FOR RECONSIDERATION**
Vs.	:	
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

REQUEST FOR RECONSIDERATION

AND NOW, comes Defendant, MARK E. JONES, by and through his attorney, Jeffrey S. DuBois, Esquire, who files this Request for Reconsideration, and in support thereof avers the following:

1. Defendant Mark E. Jones, requests consideration of the Courts Opinion and Order dated September 1, 2005, and filed September 2, 2005.

2. As set forth in the first paragraph of said Courts Opinion and Order, it states that Defendants "failing to file a Brief in this matter and upon consideration of the same".

3. On or about April of 2005, counsel for Defendant informed the Court, that because of negotiations which were ongoing, and appearing to nearing completion with

the Attorney General's office, would not file a Brief so as to not complicate the issues before the Court or have the Court address issues which would not be necessary.

4. In addition, in furtherance of this, the undersigned addressed a letter to the Court, with a copy to the Attorney General's Office, specifically Attorney Barry Creany, setting forth that negotiations were ongoing with the Attorney General's Office, and the parties were hopefully close to an agreement, and in light of that fact would not be submitting a Brief. A copy of said letter is attached hereto and made a part hereof as Exhibit "A".

5. In fact, not only were negotiations ongoing with the Attorney General's Office, and being close to an agreement, there was also negotiations with the Department of Health at this same point in time.

6. Moreover, prior to this time, Defendant Mark E. Jones, had filed a Cease and Desist Order with this Court, to which the Attorney General's Office concurred, ordering that the business of M.E. Jones transact no more business, and that Jerry Pannette, and all others connected with said business cease from using said name or operating under said name.

7. Therefore, it was clear the stance in which Mark E. Jones was taking, as well as negotiations between the parties.

8. This is further evidenced by the fact that the Attorney General's Office forwarded to the undersigned at the end of May/beginning of June, a written proposed Consent Decree to be entered into between the Attorney General's Office and Mark Jones.

9. Consequently, Mark E. Jones would request a reconsideration of the Court's decision with respect to himself.

10. This is especially true in light of the evidence which was uncontroverted at the various Hearings, which includes:

a. The W-2's evidencing the fact that Mark Jones was an employee of the company;

b. That Jerry Pannette admitted in his own testimony at the Trial that he was the owner of the business, that he controlled all operations of the business, and that he made all of the financial and business decisions with respect to the company, which would include the refunding of monies to the various consumers who are the subject of this case; and,

c. That Mark Jones had absolutely no contact with, and never worked on, any of the consumers which are the subject matter of this contempt petition.

11. Based on the above, and the clear records from the Hearings, Defendant Mark Jones' culpability and/or liability is vastly different than that of Defendant Jerry Pannette and Marketing Specialists Inc.

12. In the alternative, because of the fact of the understanding that the undersigned was left with respect to the Briefs, that if the Court requires the same, that Defendant Mark E. Jones be allowed an opportunity to file a Brief in this matter to further expand upon the items set forth above for the Court's consideration in this matter.

WHEREFORE, Defendant Mark E. Jones respectfully requests this Honorable Court to reconsider its decision with respect to Defendant Mark E. Jones, and amend said Opinion and Order with respect to Defendant Mark E. Jones, or in the alternative, to allow time for filing of a Brief before a final decision is made.

Respectfully submitted,

Jeffrey S. DuBois
Attorney for Defendant
Mark E. Jones

JEFFREY S. DuBOIS
Attorney at Law

190 West Park Avenue • Suite #5 • DuBois, PA 15801

Phone: 814-375-5598
Fax: 814-375-8710

E-Mail: jsd.law@verizon.net

May 3, 2005

Honorable Paul E. Cherry
Clearfield County Courthouse
230 East Market Street
Clearfield, PA 16830

Via: Fax

RE: Commonwealth vs. Mark E. Jones, et al
No. 01-1059-CD

Dear Judge Cherry,

With respect to the Briefs which were due in the above captioned matter, as I had eluded to you earlier, Attorney Barry Creany, on behalf of the Attorney General's Office, and I have just about reached a settlement agreement in the above captioned case. At this point in time, the agreement is being finalized and Attorney Creany has forwarded it on to the Attorney General's Office in Harrisburg for final approval.

I am therefore notifying you so as not to take up the Court's time with respect to a decision concerning my client, Mark E. Jones, in the above captioned matter, and to explain the reason for not submitting a Brief at this time.

If you should have any questions, please feel free to contact me.

Sincerely,

Jeffrey S. DuBois

JSD:tlm

Cc: Barry Creany, Esquire (faxed)

EXHIBIT "A"

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	No. 01-1059-CD
	:	Type of Pleading:
	:	**MOTION FOR RECONSIDERATION**
Vs.	:	
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

CERTIFICATE OF SERVICE

I do hereby certify that on the 12th day of September, 2005, I served a true and correct copy of the within Request for Reconsideration by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931

Jeffrey S. DuBois

CERTIFICATE OF SERVICE

A certified, true and correct copy of the foregoing Preliminary Objections was served upon the following by sending the by First Class U.S. Mail, postage prepaid, on September 26, 2005:

Jeffrey S. DuBois, Esquire
Counsel for Mark E. Jones
190 West Park Avenue, Suite #5
DuBois, PA 15801

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
ATTN : Joseph G. Pannette, President
101 North Main Street
DuBois, PA 15801

John R. Ryan, Esquire
BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830

E. Barry Creany
Senior Deputy Attorney General

FILED

SEP 27 2005

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

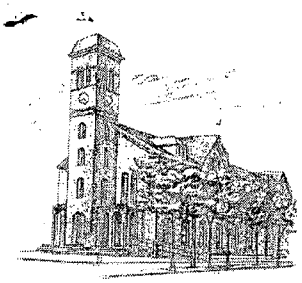
ORDER

AND NOW, this 28th day of September 2005, upon consideration of the Preliminary Objections filed by the Commonwealth of Pennsylvania, IT IS HEREBY ORDERED AND DECREED that argument on said Preliminary Objections are scheduled for the 26th day of October, 2005, at 11:00 o'clock a.m. in Courtroom No. 2 in the Clearfield County Courthouse, Clearfield, Pennsylvania.

BY THE COURT

Paul E. Cleary J.

FILED 4cc
09/14:00/01 Atty Creary
SEP 29 2005
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

___X___ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

CERTIFICATE OF SERVICE

A certified, true and attested copy of the Order of Court dated September 28, 2005, scheduling argument on the Preliminary Objections filed by the Commonwealth was served upon the following by sending the by First Class U.S. Mail, postage prepaid, on October 5, 2005:

Jeffrey S. DuBois, Esquire
Counsel for Mark E. Jones
190 West Park Avenue, Suite #5
DuBois, PA 15801

Dated: October 5, 2005

E. Barry Creany
Senior Deputy Attorney General

FILED no cc
m/11:01/Bcc
OCT 06 2005
William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. V. MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A PAPE	:	NO. 01-1059-CD

TEMPORARY ORDER

AND NOW, this 10th day of October, 2005, following Status Conference with E. Barry Creany, Esquire, counsel for the Attorney General's Office and Jeffrey S. DuBois, Esquire, counsel for Mark E. Jones, upon agreement of the Commonwealth and upon consideration of same, it is the TEMPORARY ORDER of this Court that Mark E. Jones shall be and is hereby permitted to resume business as a Hearing Aid Fitter until October 26, 2005.

BY THE COURT,

Paul E. Cherry

PAUL E. CHERRY,
JUDGE

FILED
02:27 BH
OCT 10 2005
William A. Shaw
Prothonotary/Clerk of Courts

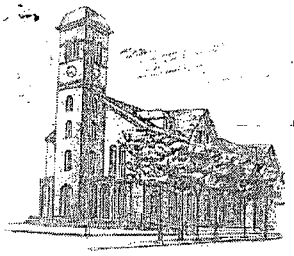
1cc Attys: Creany
DuBois
Ryan

1cc Def. Pannette
101 N. Main St.
DuBois, PA 15801

FILED

OCT 10 2005

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

HOPKINS HELTZEL LLP

900 Beaver Drive, DuBois, Pennsylvania 15801
VOICE: (814) 375-0300 FAX: (814) 375-5035

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT, Plaintiff	:	No. 01-1059-CD
	:	Type of Pleading:
	:	**DEFENDANT MARK E. JONES RESPONSE TO PLAINTIFFS PRELIMINARY OBJECTIONS**
Vs.	:	
	:	Filed on Behalf of:
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	DEFENDANT – MARK E. JONES
	:	Counsel of Record for this Party:
	:	Jeffrey S. DuBois, Esquire Supreme Court No. 62074 190 West Park Avenue, Suite #5 DuBois, PA 15801 (814) 375-5598

FILED 3cc
012:23BN Atty DuBois
OCT 19 2005
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT, Plaintiff	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

DEFENDANT MARK E. JONES RESPONSE
TO PLAINTIFFS PRELIMINARY OBJECTIONS

AND NOW, comes the Defendant, Mark E. Jones, by and through his attorney, Jeffrey S. DuBois, Esquire, who files the following response to Plaintiffs Preliminary Objections, and in support thereof avers the following:

I. RESPONSE TO ALLEGATION OF FAILURE OF PLEADING TO CONFORM TO RULE OF COURT

1. Plaintiff set forth a myriad of allegations which claimed not to be in conformance with the Rules of Court in Pennsylvania.

2. The first one set forth by Plaintiff is that Defendant, Mark E. Jones, did not sign a Verification for this Pleading.

3. In light of the fact that it was a Request for Reconsideration, and that it refers to evidence that was contained in the record and taken down by a Court Reporter, there is no need for any verification filed by the Defendant.

4. Further, all information in the Request for Reconsideration referred to evidence which is in the record, therefore, there would be no need for verification.

5. Next, Plaintiff alleges that the requirements with respect to 227.1 were not followed.

6. On the contrary, all the requirements under said rule were correctly filed by Defendant. Specifically, said Request for Reconsideration was filed within ten (10) days within the Court's Opinion and Order; the Request for Reconsideration set forth the relief that which was requested by Defendant; copies of said Request for Reconsideration were filed with the Court and copies provided to the Judge and opposing Counsel; and, a date for a Hearing was set forth by the Court.

7. As a consequence, all of the material requirements set forth in the rules were complied with by Defendant.

8. With respect to a transcript, there was no need to request the same as one has already been produced by the Court Reporters.

9. Consequently, Plaintiffs' argument is one of form over substance.

10. Next, Plaintiffs referred to a Cease and Desist Order in which Defendant Mark E. Jones filed earlier in the year.

11. Again, Plaintiffs argument is one of form over substance.

12. In this Cease and Desist Order Hearing, which was initiated by Defendant, Mark E. Jones, the Attorney General's Office did concur with such an action and did

openly state to the Court, but simply wanted the action switched to another case number and not the same case number in this particular case.

13. Finally, the Plaintiff made a claim with respect to Pennsylvania Rule of Evidence 408 concerning the inadmissibility of negotiations for settlement.

14. However, Plaintiff does not completely cite the Rule, nor the applicable portion of said rule as it pertains to this particular case.

15. Specifically, applicable portion of the rule states as follows:

> This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation of prosecution.

16. Obviously, from the above, there can be situations when evidence of negotiations can be used in a particular Court.

17. In this current situation, this is especially the case, when there is a mistaken understanding that there were little or no negotiations between Defendant Mark E. Jones and the Attorney General's Office, and a subsequent reference that a Brief had not been filed.

18. As was set forth in the Request for Reconsideration, Defendant Mark E. Jones made it clear to the Court and the Attorney General's Office that because of ongoing negotiations, which were fruitful and close to being completed, would not submit a Brief so as not to take up the Court's time, and that said Defendant was lead to the impression that this was acceptable to all parties and the Court.

WHEREFORE, the Defendant respectfully requests this Honorable Court to dismiss Plaintiff's Preliminary Objections in their entirety.

II. RESPONSE TO ALLEGATIONS OF INSUFFICIENT SPECIFICITY OF PLEADING

19. Paragraphs one (1) through eighteen (18) of the foregoing Response to Preliminary Objections are incorporated herein by reference.

20. Plaintiffs refer to alleged unverified statements of fact which were set forth in the Request for Reconsideration.

21. Defendant knows of no unverified statements set forth in the Request for Reconsideration, but simply set forth that based on the evidence which was clearly part of the record and testimony in this case, particularly the last Hearing before the Court, that Defendant Jerry Pannette admitted that he was the person who ran the business of M.E. Jones Hearing Instruments, and he made all of the financial and business decisions for the company.

22. All such statements are clearly part of the record in this case.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiffs Preliminary Objections in there entirety.

III. RESPONSE TO ALLEGATION OF LEGAL INSUFFICIENCY OF PLEADING

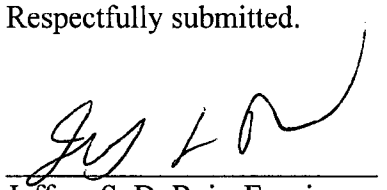
23. Paragraphs one (1) through twenty-two (22) of the foregoing Answer and Response are hereby incorporated by reference.

24. Again, Plaintiff simply makes a general statement in requesting relief, to which they are not entitled under the rules, and their Preliminary Objections should be dismissed.

25. The only matter which is clear is that Plaintiff failed to prove any act of contempt by Defendant Mark E. Jones.

WHEREFORE, Defendant respectfully requests this Honorable Court to dismiss Plaintiffs Preliminary Objections in their entirety and to grant Defendant Mark E. Jones the relief requested by Defendant in his Request for Reconsideration.

Respectfully submitted.



Jeffrey S. DuBois, Esquire
Attorney for Defendant -
Mark E. Jones

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT, Plaintiff	:	No. 01-1059-CD
Vs.	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. And ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

I do hereby certify that on the 26th day of October, 2005, I served a true and correct copy of the within Defendant Mark E. Jones Response to Plaintiffs Preliminary Objections by first class mail, postage prepaid, on the following:

E. Barry Creany, Esquire
Office of Attorney General
171 Lovell Avenue
Ebensburg, PA 15931

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

Marketing Specialists, Inc.
ATTN: Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

John R. Ryan, Esquire
P.O. Box 1
Clearfield, PA 16830

Jeffrey S. DuBois, Esquire

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

FILED 1cc Atty DuBois
0/12:08 cm
OCT 26 2005 (3) DuBois will serve.

William A. Shaw
Prothonotary

ORDER

NOW, this 26th day of October, 2005, Defendant Mark E. Jones and the Plaintiff Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett, Jr., have appeared through counsel and advised the Court that they have entered into an agreement providing for satisfaction of the monetary judgment that was entered against Mark E. Jones, pursuant to the Order dated September 1, 2005. Based upon the agreement of the parties for satisfaction of the monetary judgment entered against Defendant Mark E. Jones and agreement for resolution of this action as to Defendant Mark E. Jones, this Court's Injunctive Orders of July 24, 2001, and September 1, 2005,

are rescinded as to Defendant Mark E. Jones. Defendant Mark E. Jones may engage in further trade and commerce within the Commonwealth of Pennsylvania subject to the following injunctive provisions:

1. Defendant Mark E. Jones shall not engage in the business of selling or practice of fitting and selling hearing aids without first obtaining a registration certificate, if not currently held, from the Department of Hearing permitting him to engage in such activity;

2. While engaged in the business of selling or the practice of fitting and selling hearing aids, Defendant Mark E. Jones:

A. shall fully comply with Sections 401, 402, 403, 502, 503.1, 504, 504.1, 505, 506 and 507 of the Hearing Aid Sales Registration Law;

B. shall not engage in any activity declared unlawful by Section 605 of the Hearing Aid Sales Registration Law;

C. shall not engage in such business or practice under an unregistered fictitious name in violation of Section 310 of the Hearing Aid Sales Registration Law; and,

D. shall monitor and supervise all hearing aid fitters employed by him to engage in any such business or practice.

3. While engaged in the business of selling or the practice of fitting and selling hearing aids, Defendant Mark E. Jones shall otherwise comply fully with the Hearing Aid Sales Registration Law and the Unfair Trade Practices and Consumer Protection Law;

Defendant Mark E. Jones is hereby released from this case, without prejudice.

BY THE COURT,

Paul E Cheney

Judge

FILED

OCT 2 6 2005

William A. Shaw
Prothonotary

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

FILED 2cc Attys:
10/11:56 2m E. Barry Creany
OCT 28 2005 F. Donaghue
J. DuBois
J. Ryan
William A. Shaw 2cc Pannette-deft.
Prothonotary 101 N. main St
DuBois PA 15801

ORDER

NOW, this 26th day of October, 2005, this being the date set for hearing on Preliminary Objections filed on behalf of the Commonwealth of Pennsylvania; the Court being advised by E. Barry Creany, Esquire, of his desire to withdraw said Objections, it is the ORDER of this Court that said Preliminary Objections be and are hereby withdrawn.

BY THE COURT,

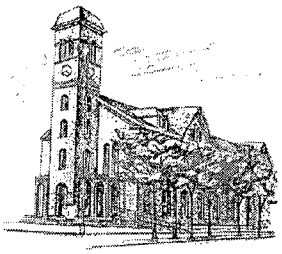
Paul E. Cherry

Judge

FILED

OCT 2 8 2005

William A. Shaw
Prothonotary



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

Over the past several weeks, it has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

CA

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-VS-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

FILED
0/12:02 cm
OCT 28 2005
William A. Shaw
Prothonotary

2CC Attys:
E. Barry Creamy
F. Donaghue
J. DuBois
J. Ryan
2CC deft
Pannette
101 N. Main St.
DuBois PA 15801

O R D E R

NOW, this 26th day of October, 2005, this being the date set for hearing on Motion for Reconsideration filed on behalf of Mark E. Jones; the Court being advised by Jeffrey S. DuBois, Esquire, of his desire to withdraw said Motion, it is the ORDER of this Court that said Motion be and is hereby withdrawn.

BY THE COURT,

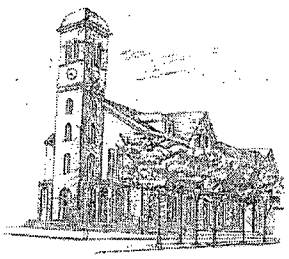
Paul E. Cherry

Judge

FILED

OCT 2 8 2005

William A. Shaw
Prothonotary



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

Date: September 19, 2005

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Sincerely,

William A. Shaw
Prothonotary

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL GERALD J. PAPPERT PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **PRAECIPE FOR SATISFACTION OF MONETARY JUDGMENT AGAINST MARK E. JONES, INDIVIDUALLY ONLY**

TO: William A. Shaw, Prothonotary

Please mark as satisfied the monetary judgment that was entered against Mark E. Jones, individually, ONLY.

Further, please mark the above-captioned action as resolved and discontinued without prejudice as to Defendant Mark E. Jones, ONLY.

Date: November 21, 2005

Respectfully submitted,

TOM CORBETT
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

FILED
NOV 23 2005
M/ 11:50/w
William A. Shaw
Prothonotary/Clerk of Courts
pd 7.00
no c/c

Date: 11/23/2005
Time: 12:00 PM
Page 1 of 1

Clearfield County Court of Common Pleas

CIVIL CASE DISPOSITIONS REPORT

Case: 2001-01059-CD

Commonwealth of Pennsylvania vs. Mark E. Jones, etal.

User: BILLSHAW

Filing date	In Favor Of	Disposition		Judgment
11/23/2005	Plaintiff	11/23/2005	Satisfied	Court Ordered
Plaintiff:	Commonwealth of Pennsylvania			Judgment amount or comment:
Defendant:	Jones, Mark E.			As to Mark E. Jones, ONLY

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION TO COMPEL**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
15TH FLOOR, STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS

JEFFREY S. DuBOIS, ESQUIRE
FOR MARK E. JONES AND
M.E. JONES HEARING INSTRUMENTS
190 WEST PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-8710

JOHN R. RYAN, ESQUIRE
FOR ROBERT W. FAULS,
RICHARD L. KERSTETTER
and RICKY A. PAPE
BELIN & KUBISTA
ATTORNEY I.D. NO. 38739
15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

FILED
m/10:38 BO
JAN 18 2006
William A. Shaw
Prothonotary/Clerk of Courts

NO CC
GP

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

MOTION TO COMPEL

Plaintiff, the Commonwealth of Pennsylvania, hereby moves the Court to enter an Order pursuant to Pennsylvania Rules of Civil Procedure No. 4019 compelling Jospeh G. Pannette, individually, and as President of Marketing Specialists, Inc., to answer the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution. In support of this motion, the Commonwealth avers the following:

1. This action was commenced with the filing of a Complaint in Equity and Petition for a Permanent Injunction along with a Motion for a Special and a Preliminary Injunction.

2. On July 20, 2001, a Special Injunction was entered restraining and enjoining Defendants Mark E. Jones, Joseph G. Pannette and Marketing Specialists, Inc., from violating the provisions of the Hearing Aid Sales Registration Law and the Consumer Protection Law. On July 24, 2001, the Court entered an Order providing that the Special Injunction would remain in full force and effect as a

Preliminary Injunction ("Injunction Order"). (A true and correct copy of said Order is attached hereto and labeled Commonwealth's Exhibit "A".)

3. On November 24, 2003, the Commonwealth filed a Petition for Contempt alleging that Defendants, Jones, Pannette and Marketing Specialists, Inc., engaged in practices prohibited by the Hearing Aid Sales Registration Law and the Consumer Protection Law and, therefore, violated the Injunction Order that had been entered by the Court.

4. On September 1, 2005, The Honorable Paul E. Cherry entered an Opinion and Order finding Defendants, Jones, Pannette and Marketing Specialists, Inc., in contempt of court and, *inter alia*, directed that they pay civil penalties in the amount of $190,000 and restitution to those consumers in the amount of $30,830.

5. Defendants Joseph G. Pannette and Marketing Specialists, Inc., did not appeal the Court's Order of September 1, 2005, and judgment has been entered against them in the amount of $220,830.

6. The Commonwealth requested Defendant Pannette begin making payments towards satisfaction of the judgment entered against him, however, when Defendant Pannette failed to respond to the Commonwealth's demand, formal discovery was initiated. Specifically, on November 29, 2005, the Commonwealth forwarded Defendant Pannette Interrogatories and Requests for Production of Documents in Aid of Execution. (A copy of said Interrogatories and Requests for Production of Documents in Aid of Execution with the transmittal letter of November 29, 2005, are attached hereto and labeled Commonwealth's Exhibit "B".)

7. Defendant Pannette failed to respond to the Interrogatories and Requests for Production of Documents in Aid of Execution in a timely manner and, therefore, on January 3, 2006, the Commonwealth notified Defendant Pannette that the Commonwealth would pursue a Motion to Compel if answers and responses were not received by January 10, 2006. (A copy of the Commonwealth's letter, along

with proof of service of the same, is attached hereto and labeled Commonwealth's Exhibit "C".)

8. As of the date of this Motion, Defendant Pannette has not responded to the discovery request served upon him and has not contacted the Commonwealth to discuss the matter.

WHEREFORE, the Commonwealth requests this Honorable Court to enter an Order compelling Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., to provide the Commonwealth with full and complete answers and responses to the Commonwealth's Interrogatories and Requests for Production of Documents in Aid of Execution or, in the event he should fail to provide such answers and responses, to suffer the imposition of appropriate sanctions by this Court.

Date: January 17, 2006

RESPECTFULLY SUBMITTED,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

VERIFICATION

I, E. Barry Creany, state that I am a Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection and that I am authorized to make this verification as to the statements made in the foregoing Motion to Compel discovery are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsifications to authorities.

Dated: January 17, 2006

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion to Compel was forwarded on the 17th day of January, 2006, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to the following:

Joseph G. Pannette, Individually
and Joseph G. Pannette, President
Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01 – 1059 – CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC.	:	

ORDER

NOW, this 24th day of July, 2001, this being the day and date set for hearing into Plaintiff's Motion for Special Injunction, upon agreement of the parties, it is the ORDER of this Court that the Injunction entered July 20, 2001, shall be and remain in full force and effect until further Order of Court.

By the Court,

/s/ John K. Reilly, Jr.

President Judge

Exhibit "A"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS IN AID OF EXECUTION**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
15TH FLOOR, STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

Exhibit "B"

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

TO: **JOSEPH G. PANNETTE, individually and JOSEPH G. PANNETTE, President of MARKETING SPECIALISTS, INC., DEFENDANTS**

DATE: **November 29, 2005**

PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS IN AID OF EXECUTION

Plaintiff, Commonwealth of Pennsylvania, submits the following interrogatories and requests for production of documents in aid of execution pursuant to Pennsylvania Rules of Civil Procedure Nos. 3117, 4003.1, 4005, 4007.3 and 4009.11 for reply and answering by Defendant Joseph G. Pannette in accordance with provisions of the Pennsylvania Rules of Civil Procedure Nos. 4006 and 4009.12.

DEFINITIONS

A. As used herein, "defendant," you," "your" or "yours" shall mean Joseph G. Pannette or any of his agents, representatives, attorneys and all other persons acting or purporting to act on his behalf.

B. As used herein, "person" means any natural person, firm, partnership, incorporated or unincorporated association, organization, joint venture, proprietorship, business trust, any other legal or commercial entity, and any public entity or government agency.

C. As used herein, "document" shall mean all written material, however produced or reproduced and wherever located, that is owned, possessed, controlled, or in the custody of or accessible to the defendant, constructively or otherwise, and whether prepared or received by the defendant; and, shall include, but is not limited to, letters correspondence, certificates, newspapers, logs, journals, accounts, schedules, contracts, prospectuses, marketing and advertising materials, agreements, drafts, reports, memoranda (including memoranda or notes of telephone conversations, other conversations, discussions, meetings or conferences), telegrams, facsimiles, photographs, books, transcripts, records, pamphlets, office communications (inter-office or intra-office), bulletins, manuals, minutes, marketing studies, statements, notebooks, forms, notices, tabulations, analyses, studies, microfilms, voice recordings, video tapes, tables or statistical or other data, computer-stored data (e-mail, etc.), notes or other tangible things, including copies if the copies bear any other markings or notations of any kind and each document shall include all attachments, enclosures and material underlying, supporting or use in preparation of such document and other documents that relates or refers to each such document.

D. As used herein, "relate to," relating to," "pertain to" or "pertaining to" include referring to, reflecting, regarding, constituting, concerning or having as its subject matter, in any manner whatsoever, directly or indirectly, expressly or implied, the subject matter of this specific document request.

E. As used herein, "identify," when used in reference to an individual, means to state the full name and present or last known residence and business address, his present or last known position or title and business affiliation, and his position at the time in question. Where an interrogatory requests that documents be identified, and identification of it is to include at least the following: its author, addressee, type of document, date, subject matter, and the name and address of the person or entity presently having custody of the

document or any known copies of it. If only an approximate date is given, it will be presumed that you have no recollection or specific knowledge as to the exact date.

INSTRUCTIONS

1. The Interrogatories and Request for Production of Documents set forth herein are deemed continuing and supplemental answers are required when the defendant gains additional or different information demonstrating that an answer was incorrect or incomplete when made or that the answer made is no longer true and complete.
2. All information that is not privileged and that is in the possession of defendant or his counsel, former counsel, investigators, agents, employees, or other representative is to be provided. In the event that any document is withheld under a claim of privilege, state the date of the document, its author and basis for the claim of privilege.
3. Where an individual interrogatory calls for an answer that involves more than one part, each part of the answer shall be clearly set forth so as to be understandable.
4. In the event that multiple copies of a particular document exist and the copies vary in any way, including but not limited to the addition of marginal notes, this request calls for the production of the original and all non-identical copies of the document.

INTERROGATORY NO. 1

Identify all persons who have prepared or aided in the preparation of the answers to the Interrogatories and Requests for Production of Documents contained herein, including the person executing these answers and the attached affidavit, and specify each answer that such persons prepared or aided in the preparation of the same.

ANSWER:

INTERROGATORY NO. 2

State the address of your primary residence (hereinafter "residential real estate").

ANSWER:

INTERROGATORY NO. 3

Identify the date on which you acquired any interest in the residential real estate identified in response to Interrogatory No. 2, and specify the nature and extent of your interest in said residential real estate.

ANSWER:

INTERROGATORY NO. 4

Identify any person that has any interest of any kind in the residential real estate identified in response to Interrogatory No. 2.

ANSWER:

INTERROGATORY NO. 5

Identify all persons who reside with you at the residential real estate that is identified in response to Interrogatory No. 2.

ANSWER:

INTERROGATORY NO. 6

Identify any relationship you have with any of the persons identified in response to Interrogatory No. 5.

ANSWER:

INTERROGATORY NO. 7

Do the persons, if any, identified in response to Interrogatory No. 5 provide you with any compensation including, without limitation, cash, goods, services or any other items of value in exchange for being permitted to reside at said residential real estate?

ANSWER:

INTERROGATORY NO. 8

State the value of the residential real estate identified in response to Interrogatory No. 2.

ANSWER:

DOCUMENT REQUEST NO. 1

Produce true and correct copies of any reports, statements or other documents providing any valuation of the residential real estate identified in response to Interrogatory No. 2 including, without limitation, any appraisals conducted on said residential real estate.

INTERROGATORY NO. 9

Identify each of your dependents, if any.

ANSWER:

INTERROGATORY NO. 10

Identify all sources of any income that you have received at any time since January 1, 2005.

ANSWER:

INTERROGATORY NO. 11

Identify any sources of income that you anticipate receiving in the coming 12 months.

ANSWER:

DOCUMENT REQUEST NO. 2

Produce true and correct copies of your 2002, 2003 and 2004 Income Tax Returns.

INTERROGATORY NO. 12

Identify any real estate in which you have any type of interest regardless of whether the real estate is located within Pennsylvania or outside Pennsylvania.

In doing so, identify:

A. The location of the real estate;

ANSWER:

B. The nature and extent of your interest in the real estate;

ANSWER:

C. Any persons who share an ownership interest in the real estate; and,

ANSWER:

D. The value of any such real estate.

ANSWER:

INTERROGATORY NO. 13

Have you, or anyone on your behalf, conveyed or transferred (hereinafter "transferred") any interest in any real estate since July 1, 2001, to date?

If so, as to each such conveyance or transfer state:

A. Description of the real estate by as well as its location;

ANSWER:

B. The interest transferred;

ANSWER:

C. The identity of the person to whom the real estate was transferred;

ANSWER:

D. The consideration you received for the transfer; and,

ANSWER:

E. The date of the transfer.

ANSWER:

INTERROGATORY NO. 14

Do you hold a mortgage on or other security interest in any real estate including, without limitation, any individual interest or interest held with any other party?

ANSWER:

INTERROGATORY NO. 15

Do you own an automobile, motorcycle, boat, airplane or helicopter (hereinafter "vehicles") either individually or jointly with any other party?

ANSWER:

If so, state as to each such vehicle:

A. The make, model, year, color, vehicle identification number or registration number and title number, if any, of said vehicle.

ANSWER:

B. The name(s) of the person(s) who appear on the registration or certificate of title for said vehicle;

ANSWER:

C. The current location of said vehicle;

ANSWER:

D. The date of purchase and purchase price paid for said vehicle;

ANSWER:

E. The current fair market value of said vehicle;

ANSWER:

F. The balance due on any outstanding purchase money security interest in said vehicle; and, the identity of the secured party; and,

ANSWER:

G. Each person who has paid or is in the process of paying any part of the purchase money loan on said vehicle.

ANSWER:

DOCUMENT REQUEST NO. 3

Produce true and correct copies of all documents relating to the purchase and financing of any vehicles identified in response to Interrogatory No. 15 above.

INTERROGATORY NO. 16

Identify all of your personal property you either own or have an interest in which have a fair market value in excess of $250 including, without limitation, jewelry, gems, artwork, precious metals, collectibles, furs, photographic equipment, cameras, guns, electronic equipment, etc.

ANSWER:

INTERROGATORY NO. 17

Identify any intangible assets you either own or have an interest in which have a fair market value in excess of $250 including, without limitation, any patents, copyrighted materials, licenses, or any rights of action.

ANSWER:

INTERROGATORY NO. 18

Identify all accounts of any type which you have with any banks, savings and loans, depositories, other financial institutions, brokerage firms, insurance companies or any other investment institutions. As to any such account identified in response to this interrogatory, provide the account number, the value of the account and the name, address and telephone number of the custodian of the account.

ANSWER:

DOCUMENT REQUEST NO. 4

Produce true and correct copies of the most recent account statement that has been issued on the accounts identified in response to Interrogatory No. 18 above.

INTERROGATORY NO. 19

Identify any certificates of deposit you either own, purchased or had an interest in that were issued at any time after July 1, 2001.

ANSWER:

DOCUMENT REQUEST NO. 5

Produce a copy of all certificates of deposit identified in response to Interrogatory No. 19.

INTERROGATORY NO. 20

Identify any safety deposit box that you have used or had access to at any time since July 1, 2001.

ANSWER:

INTERROGATORY NO. 21

Identify any interest that you currently have in any business or have had in any business since July 1, 2001 (hereinafter "business").

ANSWER:

INTERROGATORY NO. 22

Identify any uncollected debts, accounts receivable, or other monies that are owed either to you or to any business that you have an interest in.

ANSWER:

INTERROGATORY NO. 23

Identify any unsatisfied judgments of record that were entered in your favor in any action or which have been assigned to you by anyone.

ANSWER:

INTERROGATORY NO. 24

Identify any right, interest, financial advantage or prospect thereof under any contract, insurance claim or other claim, cause of action or pending lawsuit that you currently have or anticipate having within the next twelve months.

ANSWER:

INTERROGATORY NO. 25

Identify any assets that you have transferred to any person at any time since July 1, 2001, which had a value of $500 or more.

ANSWER:

AFFIDAVIT

I, Joseph G. Pannette, do hereby state that the answers, responses and replies to the foregoing Interrogatories and Requests for Production of Documents in Aid of Execution are full, complete, true and correct to the best of my information, knowledge and belief.

Date: _____

_____
Joseph G. Pannette

This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

TOM CORBETT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831
Fax: (814) 471-1840

ER221379690US

VIA: EXPRESS MAIL

November 29, 2005

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, *et al.*
No. 01-1059-C.D.
Clearfield County

Dear Mr. Pannette:

Enclosed with this letter are Interrogatories and Requests for Production of Documents in Aid of Execution. You are required to answer the interrogatories and produce the documents requested within 30 days of the date of your receipt of this request.

I look forward to your prompt attention and cooperation in this matter.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

EBC/jmm

Enclosure

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

TOM CORBETT
ATTORNEY GENERAL

Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
(814) 471-1831
Fax: (814) 471-1840

VIA: CERTIFIED MAIL/RETURN RECEIPT REQUESTED

January 3, 2006

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

RE: Commonwealth v. M.E. Jones Hearing Instruments, *et al.*
No. 01-1059-C.D.
Clearfield County

Dear Mr. Pannette:

At the end of November we served you with Interrogatories and Requests for Production of Documents in Aid of Execution. Your response to those discovery requests was due on December 30, 2005. This letter is to give you notice that if I do not receive your responses to that discovery by January 10, 2006, I will proceed on the assumption that you are not going to be responsive and file a motion requesting the Court to compel your compliance with the same.

Sincerely,

E. Barry Creany
Senior Deputy Attorney General

EBC/jmm

Exhibit "C"

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL™

7002 2030 0005 7608 8022

7002 2030 0005 7608 8022

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Office of Attorney General

Postage	$ .37
Certified Fee	2.30
Return Reciept Fee (Endorsement Required)	1.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$ 4.42

Postmark Here

Sent To: Mr. Joseph G. Pannette
Street, Apt. No.; or PO Box No.: 101 North Main Street
City, State, ZIP+4: DuBois, PA 15801

PS Form 3800, June 2002 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* | C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☑ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number *(Transfer from service label)* 7002 2030 0005 7608 8022

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL DIVISION - EQUITY
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

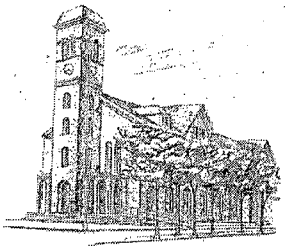
ORDER

AND NOW, this 18th day of January, 2006, the Commonwealth's Motion to Compel discovery is hereby granted and IT IS HEREBY ORDERED AND DECREED that Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., shall provide full and complete answers and responses to the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution before February 1, 2006, or said Defendant shall be deemed to be in contempt of this Order and, upon motion of the Commonwealth, shall be subject to sanctions pursuant to Pa.R.C.P. No. 419.

BY THE COURT:

Paul E. Cherry J.

FILED 4cc Atty Creary
03:05 BL
JAN 19 2006
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 11/9/06

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL DIVISION - EQUITY
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

FILED 1cc
m/10:41/BN
JAN 27 2006
William A. Shaw
Prothonotary/Clerk of Courts

CERTIFICATE OF SERVICE

I, E. Barry Creany, hereby certify that a true and attested copy of the Order of The Honorable Paul E. Cherry dated January 18, 2006, granting the Commonwealth's motion to compel discovery and Defendant, Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., to provide full and complete answers and responses to Plaintiff Interrogatories was served upon the following by sending the Order by First Class U.S. Certified Mail,/Return Receipt Requested, postage prepaid, on January 25, 2006:

Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Mr. Joseph G. Pannette
101 North Main Street
DuBois, PA 15801

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION TO REISSUE ORDER COMPELLING DISCOVERY**

FILED
FEB 08 2006
m/ 10:10 (w)
William A. Shaw
Prothonotary/Clerk of Courts
No C/C

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
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SENIOR DEPUTY ATTORNEY GENERAL
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COUNSEL FOR DEFENDANTS

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DUBOIS, PA 15801
(814) 375-8710

JOHN R. RYAN, ESQUIRE
FOR ROBERT W. FAULS,
RICHARD L. KERSTETTER
and RICKY A. PAPE
BELIN & KUBISTA
ATTORNEY I.D. NO. 38739
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P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

MOTION TO REISSUE ORDER COMPELLING DISCOVERY

AND NOW, this 7th day of February, 2006, the Plaintiff, the Commonwealth of Pennsylvania, hereby moves the Court to reissue an Order compelling Jospeh G. Pannette, individually, and as President of Marketing Specialists, Inc., to answer the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution. In support of this motion, the Commonwealth avers the following:

1. On or about January 18, 2006, the Plaintiff filed a Motion to Compel Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, as President of Marketing Specialists, Inc., to answer Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution. The aforesaid Motion to Compel was served upon Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, as President of Marketing Specialists, Inc., by forwarding copies of the motion to said Defendant as evidenced by the Certificate of Service attached to the Motion to Compel.

2. The Honorable Paul E. Cherry entered an Order on January 18, 2006, and true and attested copies of said Order were forwarded to the Plaintiff from William A. Shaw, Prothonotary, on January 19, 2006.

3. On January 25, 2006, true and attested copies of Judge Cherry's Order of January 18, 2006, were forwarded to Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., by Certified Mail/Return Receipt Requested.

4. The Plaintiff has not received the Return Receipt evidencing that the Court's Order of January 18, 2006, was served upon Defendants Joseph G. Pannette and Marketing Specialists, Inc.

5. As of the date of this motion, neither Defendant Pannette nor Defendant Marketing Specialists, Inc., has responded to the discovery requests served upon them and have not contacted the Commonwealth to discuss the matter.

WHEREFORE, the Commonwealth requests this Honorable Court to reissue an Order compelling Defendants Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., to provide the Commonwealth with full and complete answers and responses to the Commonwealth's Interrogatories and Requests for Production of Documents in Aid of Execution where, in the event they should fail to provide such answers and responses, to suffer the imposition of appropriate sanctions by this Court.

Date: February 7, 2006

RESPECTFULLY SUBMITTED,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. Barry Creany

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL

VERIFICATION

I, E. Barry Creany, state that I am a Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection and that I am authorized to make this verification as to the statements made in the foregoing Motion to Reissue Order Compelling Discovery are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsifications to authorities.

Dated: February 7, 2006

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion to Reissue Order Compelling Discovery was forwarded on the 7th day of February, 2006, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to the following:

Joseph G. Pannette, Individually
101 North Main Street
DuBois, PA 15801

Joseph G. Pannette, President
Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

E. Barry Creany
Senior Deputy Attorney General

FILED
FEB 08 2006
William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL DIVISION - EQUITY
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

ORDER

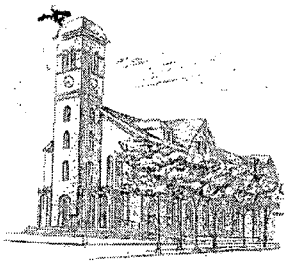
AND NOW, this 9th day of February, 2006, the Commonwealth's Motion to Reissue Order Compelling Discovery is hereby granted and is HEREBY ORDERED AND DECREED that Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., shall provide full and complete answers and responses to the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution before February 23, 2006, or Defendant Joseph G. Pannette shall be deemed to be in contempt of Court and upon motion of the Commonwealth, shall be subject to sanctions pursuant to Pa.R.C.P. No. 4019.

BY THE COURT:

Paul E. Cherry J.

FILED
01:19 PM
FEB 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

GK
2cc Creany
1cc Donaghue
DuBois
Ryan
1cc Joseph Pannette, JG Pannette Marketing, Marketing Specialists
101 N. Main St.
DuBois, PA 15801



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/13/06

_____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s)/Attorney(s)

__X__ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION

FILED
9:50 BM
MAR 08 2006
William A. Shaw
Prothonotary/Clerk of Courts
4cc Atty Creany

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	
vs.	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

ORDER

AND NOW, this 3rd day of March, 2006, it is the ORDER of the Court that argument on Plaintiff's Motion for Sanctions in the above matter has been scheduled for **Friday, March 31, 2006 at 10:00 A.M**, in Courtroom No. 2, Clearfield County Courthouse, Clearfield, PA. One-half (1/2) hour has been allotted for this matter.

It is the responsibility of Plaintiff to serve certified copies of said Petition and scheduling Order on all Defendants.

BY THE COURT:

Paul E. Cherry
Judge

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. **MOTION FOR SANCTIONS**

FILED no cc
0/3:03/01
FEB 24 2006 (GK)
William A. Shaw
Prothonotary/Clerk of Courts

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
15TH FLOOR, STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANTS

JEFFREY S. DuBOIS, ESQUIRE
FOR MARK E. JONES AND
M.E. JONES HEARING INSTRUMENTS
190 WEST PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-8710

JOHN R. RYAN, ESQUIRE
FOR ROBERT W. FAULS
BELIN & KUBISTA
ATTORNEY I.D. NO. 38739
15 NORTH FRONT STREET
P.O. BOX 1
CLEARFIELD, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

MOTION FOR SANCTIONS

AND NOW, this 24th day of February, 2006, the Plaintiff, the Commonwealth of Pennsylvania, hereby moves the Court to enter a Sanction Order pursuant to Pennsylvania Rules of Civil Procedure No. 4019 against Defendant Jospeh G. Pannette. The grounds to support this motion are:

1. On or about January 18, 2006, the Plaintiff filed a Motion to Compel Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., to answer Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution. The aforesaid Motion to Compel was served upon Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., by forwarding copies of the motion to said Defendant as evidenced by the Certificate of Service attached to the Motion to Compel.

2. Upon consideration of the Plaintiff's Motion to Compel, the Honorable Paul E. Cherry entered an Order pursuant to Pa.R.C.P. No. 4019(a) on January 18, 2006, and said Order was filed in the Clearfield County Prothonotary's Office on January 19, 2006, who in turn provided true and attested copies of the same to the Plaintiff.

3. On January 25, 2006, true and attested copies of Judge Cherry's Order of January 18, 2006, were forwarded to Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., by Certified Mail/Return Receipt Requested. The Plaintiff filed a Certificate of Service in this matter evidencing its efforts to serve Judge Cherry's Order.

4. When Defendant Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., had not responded to the discovery requests by February 1, 2006; and, the Plaintiff had not received certified mail receipts evidencing the Defendants' receipt of Judge Cherry's January 18, 2006, Order, the Plaintiff filed a Motion to Reissue Order Compelling Discovery.

5. Upon consideration of the Plaintiff's Motion to Reissue Order Compelling Discovery, the Honorable Paul E. Cherry entered an Order pursuant to Pa.R.C.P. 4019(a) on February 9, 2006, ordering Joseph G. Pannette, individually, and Joseph G. Pannette, President of Marketing Specialists, Inc., to provide full and complete responses to the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution before February 23, 2006. William A. Shaw, Prothonotary, served true and attested copies of said Order to the Plaintiff and Defendants on February 13, 2006. A true and correct copy of the memo of William A. Shaw, Prothonotary, evidencing his service of the Order is attached hereto and labeled Exhibit "A". In addition, upon its receipt of the copies of Judge Cherry's February 9, 2006, Order, the Plaintiff forwarded copies of the same to Joseph G. Pannette, individually, and Joseph G. Pannette, President of

Marketing Specialists, Inc., by U.S. Mail. Said letters have not been returned to the Plaintiff. Additionally, a true and attested copy of the Order of February 9, 2006, was personally served upon the Defendant Joseph G. Pannette by hand delivering a copy of the same to an adult member of Defendant Joseph G. Pannette's household at his residence, 470 Treasure Lake, DuBois, Pennsylvania 15801, at 5:45 p.m., on Thursday, February 16, 2006.

6. Defendant Joseph G. Pannette has not provided any response whatsoever to the discovery served upon him nor has he contacted the Plaintiff to request an extension or explain his reason for failing to have responded to said discovery request.

7. Defendant Joseph G. Pannette is in contempt of the Court's Order of February 9, 2006, due to his failure to provide answers and responses to the Plaintiff's Interrogatories and Requests for Production of Documents in Aid of Execution before February 23, 2006.

8. This Court is authorized by Pa. R.C.P. No. 4019(c) to enter sanctions against Joseph G. Pannette for disobeying the Court's Order of February 9, 2006.

WHEREFORE, the Commonwealth requests this Honorable Court to enter a Sanction Order providing the following relief:

A. Directing the Clearfield County Prothonotary to strike out all pleadings filed by Defendant Joseph G. Pannette and enter judgment by default against Joseph G. Pannette.

B. Authorizing the Plaintiff to file a motion pursuant to Pa.R.C.P. No. 1037(d) for a hearing to provide testimony and other evidence to assist the Court in its decision in the forming of a final order in this matter as to Defendant Joseph G. Pannette as prayed for in the Amended Complaint on this matter.

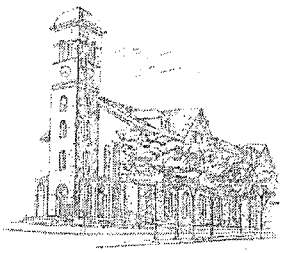
Date: February 24, 2006

RESPECTFULLY SUBMITTED,

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

FRANK T. DONAGHUE
CHIEF DEPUTY
ATTORNEY GENERAL

E. BARRY CREANY
SENIOR DEPUTY
ATTORNEY GENERAL



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 2/13/06

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext 1330 ▪ Fax: (814) 765-7659

Exhibit "A"

VERIFICATION

I, E. Barry Creany, state that I am a Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection and that I am authorized to make this verification as to the statements made in the foregoing Motion for Sanctions under Pa. R.C.P. 4019 are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsifications to authorities.

Dated: February 24, 2006

E. Barry Creany
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion for Sanctions under Pa. R.C.P. 4019 was forwarded on the 24th day of February, 2006, pursuant to Pennsylvania Rule of Civil Procedure 2352(a) by First Class U.S. Mail, postage prepaid, to the following:

Joseph G. Pannette, Individually
101 North Main Street
DuBois, PA 15801

Joseph G. Pannette, President
Marketing Specialists, Inc.
101 North Main Street
DuBois, PA 15801

Jospeh G. Pannette, Individually
470 Treasure Lake
DuBois, PA 15801

Joseph G. Pannette, President
470 Treasure Lake
DuBois, PA 15801

E. Barry Creany
Senior Deputy Attorney General

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

ORDER

AND NOW, this day of February, 2006, upon consideration of the Plaintiff's Motion for Sanctions filed on February 24, 2006, it is hereby ORDERED AND DECREED as follows:

1. William A. Shaw, Prothonotary, is hereby directed to strike out all pleadings filed by Defendant Joseph G. Pannette and enter judgment by default against Joseph G. Pannette.
2. The Plaintiff is authorized to file a motion pursuant to Pa.R.C.P. No. 1037(d) for a hearing to provide testimony and other evidence to assist the Court in its decision in the forming of a final order in this matter as to Defendant Joseph G. Pannette as prayed for in the Amended Complaint on this matter.

BY THE COURT:

_____

J.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

Filed on Behalf of:
Defendant, RICKY A. PAPE

Counsel of Record for
This Party:

JOHN R. RYAN, ESQUIRE
Pa. I.D. #38739

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 2cc
01/04/2006 Atty Ryan
FEB 27 2006
William A. Shaw
Prothonotary/Clerk of Courts
copy to CIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO WILLIAM SHAW, PROTHONOTARY:

Pursuant to the Stipulation dated January 16, 2006, please withdraw my appearance as counsel for **RICKY A. PAPE**, Defendant in the above-captioned action.

John R. Ryan, Esquire

FILED

FEB 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

STIPULATION

Filed on Behalf of:
Defendant, Ricky A. Pape

Counsel of Record for
This Party:

JOHN R. RYAN, ESQUIRE
Pa. I.D. #38739

BELIN & KUBISTA
15 North Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 2cc Atty Ryan
01:10:42 BC
FEB 27 2006
(GN) Copy to
William A. Shaw
Prothonotary/Clerk of Courts C/A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

STIPULATION

NOW THIS 16th of JANUARY, 2006, upon stipulation of RICKY A. PAPE and his counsel, JOHN R. RYAN, it is hereby agreed that JOHN R. RYAN is permitted to withdraw as counsel for RICKY A. PAPE.

John R. Ryan, Esquire

Ricky A. Pape

FILED

FEB 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PETITION FOR LEAVE TO WITHDRAW AS COUNSEL

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 3cc
01 10:42 BL Atty Ryan
FEB 27 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PETITION FOR LEAVE TO WITHDRAW AS COUNSEL

NOW COMES, John R. Ryan, Esquire, counsel of record for Richard Kerstetter, Defendant above named, and petitions the Honorable Court as follows:

1. Petitioner had previously been retained as counsel for the individual named Defendants Pape, Kerstetter and Fauls.

2. On or about January 16, 2006, Defendants Pape and Kerstetter advised Petitioner that they were retaining other counsel to represent their interests in the above matter. Petitioner continues to represent Defendant Fauls.

3. At that time, Defendant Pape executed a stipulation for the withdrawal of Petitioner as counsel.

4. At that time, Petitioner mailed a similar stipulation to Defendant Kerstetter, which has not been returned to Petitioner.

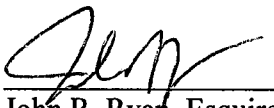
5. Petitioner has not been advised by other counsel of an entry of appearance on behalf of Defendant Kerstetter.

6. It is believed and therefore averred that the case will be moving forward in the near future, and based on the last communication with Defendant Kerstetter, Petitioner believes and therefore avers that his services are no longer desired by Kerstetter.

WHEREFORE, Petitioner requests that the Court issue a rule upon Defendant Kerstetter to show cause why Petitioner should not be granted leave to withdraw, and failing a written response with the time allotted by the Court, to grant the above Petition and allow Petitioner to withdraw as counsel.

Respectfully submitted,

BELIN & KUBISTA



John R. Ryan, Esquire

FILED

FEB 27 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED No cc.
0/10:42am
FEB 28 2008
William A. Shaw
Prothonotary

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

This is to certify that I have served certified copies of Stipulation and Praecipe for Withdrawal of Appearance on behalf of Defendant Ricky A. Pape in the above captioned matter on the following parties by first class, United States mail, postage prepaid, on the 27th day of February, 2006:

Ricky A. Pape
1628 Treasure Lake
Du Bois, PA 15801
Defendant

E. Barry Creany, Esquire
Senior Deputy Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
Attorney for Plaintiff

BELIN & KUBISTA



John R. Ryan

FILED

FEB 2 8 2006

William
Pro

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

RULE

AND NOW, this 27th day of February, 2006, upon consideration of the foregoing Petition for Leave to Withdraw as Counsel, a Rule is hereby issued upon the Respondent, Richard L. Kerstetter, to show cause why the relief requested therein should not be granted.

Rule returnable the 28th day of March, 2006, for filing a written response. Failure on the part of the Respondent objecting to the withdrawal of Petitioner as counsel by the date set forth above will result in the issuance of an Order granting the relief requested therein.

BY THE COURT:

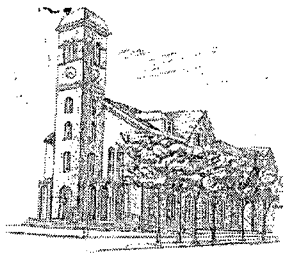
Paul E. Cherry
Judge

FILED 3CC Atty Ryan
01:41 BL
MAR 01 2006
William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAR 01 2006

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw
Prothonotary/Clerk of Courts

David S. Ammerman
Solicitor

Jacki Kendrick
Deputy Prothonotary

Bonnie Hudson
Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 3/1/06

__X__ You are responsible for serving all appropriate parties.

_____ The Prothonotary's office has provided service to the following parties:

_____ Plaintiff(s)/Attorney(s)

_____ Defendant(s)/Attorney(s)

_____ Other

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 1 cc
013:08BH
MAR 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

This is to certify that I have served a certified copy of Petition to Withdraw as Counsel for Defendant Richard L. Kerstetter and Rule on the following parties by first class, United States mail, postage prepaid, on the 2nd day of March, 2006:

Richard L. Kerstetter
713 West Weber Avenue
Du Bois, PA 15801
Defendant

E. Barry Creany, Esquire
Senior Deputy Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
Attorney for Plaintiff

BELIN & KUBISTA



John R. Ryan

FILED

MAR 02 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

FILED
MAR 31 2006
m/10:30 cc
William A. Shaw
Prothonotary/Clerk of Courts
NO C/C

AFFIDAVIT OF SERVICE

I, Timothy B. Shirey, an adult citizen of the United States and agent for the Commonwealth of Pennsylvania, Office of Attorney General, Bureau of Consumer Protection, do hereby state and affirm that I served a true and correct copy of the scheduling Order dated March 3, 2006, along with a copy of the Motion for Sanctions upon Joseph G. Pannette by hand delivering the Order and Motion for Sanctions at his residence at 470 Treasure Lake, DuBois, Pennsylvania 15801, at 8:30 a.m., on Friday, March 24, 2006.

Dated: March 30, 2006

Timothy B. Shirey
Consumer Protection Agent III

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

FILED
01 3:31 BN
APR 03 2006
William A. Shaw
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.

-vs-

No. 01-1059-CD

MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE

Atty: Creany Ryan Donaghue DuBois Hopkins

Joseph Pannette JG Pannette Mark K. and Marketing Sp. 101 N. Main St. Box 686 DuBois, PA 15801

Ricky A Pape 1628 Treasure Lake DuBois PA 15801

ORDER

NOW, this 31st day of March, 2006, this being the date set for hearing on Plaintiff's Motion for Sanctions, it is the ORDER of this Court as follows:

1. Joseph G. Pannette shall file more complete answers to interrogatories and request for production of documents by no later than April 13, 2006, by filing a copy with the Prothonotary of Clearfield County by said date and providing a copy to the Commonwealth of Pennsylvania, E. Barry Creany, Esquire. Any failure to file the interrogatories as set forth above shall result in the issuance of a Sanction Order by the Court directing the Prothonotary to strike all pleadings filed by Joseph G.

Pannette and enter judgment by default against Joseph G. Pannette;

2. Joseph G. Pannette shall make available the title and boat, being a 1987 Bayliner, to a representative of the Commonwealth of Pennsylvania upon request by the Commonwealth;

3. This matter shall be scheduled for hearing before the Court upon motion by either party.

BY THE COURT,

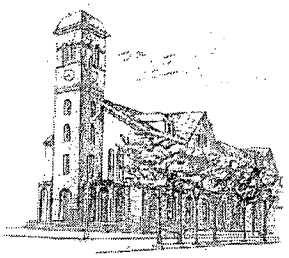
Paul E Cherry

Judge

FILED

APR 03 2006

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 4/3/06

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

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ORDER

AND NOW, this 4th day of April, 2006, no response having been filed to the Court's previous Order of February 27, 2006, it is the ORDER of this Court that John R. Ryan, Esquire, be and is hereby granted leave to withdraw as counsel for RICHARD L. KERSTETTER, Defendant in the above-captioned matter.

BY THE COURT:

Paul E. Cheney
Judge

FILED
01 9:15 GK
APR 05 2006
William A. Shaw
Prothonotary/Clerk of Courts

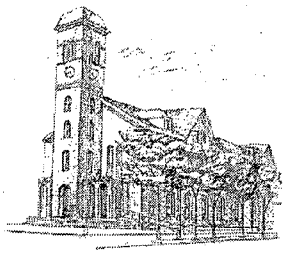
1cc Attys: Creany
Donaghue
DuBois
Ryan

1cc R. Kerstetter
713 W. Weber Ave.
DuBois, PA 15801

1cc Joseph Pannette
J.G. Pannette Marketing
Marketing Specialists
101 N. Main St.
DuBois, PA 15801

1cc R. Pape
1628 Treasure Lake, DuBois, PA 15801

FILED
APR 05 2006
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
David S. Ammerman Solicitor
Jacki Kendrick Deputy Prothonotary
Bonnie Hudson Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

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Sincerely,

William A. Shaw
Prothonotary

DATE: 4/5/06

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

__X__Plaintiff(s)/Attorney(s)

__X__Defendant(s)/Attorney(s)

_____Other

_____Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
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PRAECIPE FOR WITHDRAWAL OF APPEARANCE

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED 4cc
8/3:34/BH Atty Ryan
APR 06 2006
(GM) Copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

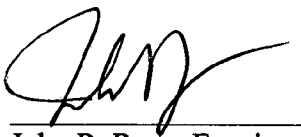
IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
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PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO WILLIAM SHAW, PROTHONOTARY:

Pursuant to the Order of Court dated April 4, 2006, please withdraw my appearance as counsel for Defendant, RICHARD L. KERSTETTER, in the above-captioned action.



John R. Ryan, Esquire

FILED

APR 06 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	CIVIL DIVISION - EQUITY NO. 01-1059-C.D. Answers **PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS IN AID OF EXECUTION**

COUNSEL FOR PLAINTIFF

FRANK T. DONAGHUE
CHIEF DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 72561
OFFICE OF ATTORNEY GENERAL
ADMINISTRATIVE OFFICE
15TH FLOOR, STRAWBERRY SQUARE
HARRISBURG, PA 17120
(717) 787-9707

E. BARRY CREANY
SENIOR DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 39543
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

FILED 1cc
01:48 BOH
APR 13 2006
Atty LaFelle
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL DIVISION - EQUITY NO. 01-1059-C.D.

TO: **JOSEPH G. PANNETTE, individually and JOSEPH G. PANNETTE, President of MARKETING SPECIALISTS, INC., DEFENDANTS**

DATE: **March 31, 2006**

PLAINTIFF'S INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS IN AID OF EXECUTION

Plaintiff, Commonwealth of Pennsylvania, submits the following interrogatories and requests for production of documents in aid of execution pursuant to Pennsylvania Rules of Civil Procedure Nos. 3117, 4003.1, 4005, 4007.3 and 4009.11 for reply and answering by Defendant Joseph G. Pannette in accordance with provisions of the Pennsylvania Rules of Civil Procedure Nos. 4006 and 4009.12.

DEFINITIONS

A. As used herein, "defendant," you," "your" or "yours" shall mean Joseph G. Pannette or any of his agents, representatives, attorneys and all other persons acting or purporting to act on his behalf.

B. As used herein, "person" means any natural person, firm, partnership, incorporated or unincorporated association, organization, joint venture, proprietorship, business trust, any other legal or commercial entity, and any public entity or government agency.

C. As used herein, "document" shall mean all written material, however produced or reproduced and wherever located, that is owned, possessed, controlled, or in the custody of or accessible to the defendant, constructively or otherwise, and whether prepared or received by the defendant; and, shall include, but is not limited to, letters correspondence, certificates, newspapers, logs, journals, accounts, schedules, contracts, prospectuses, marketing and advertising materials, agreements, drafts, reports, memoranda (including memoranda or notes of telephone conversations, other conversations, discussions, meetings or conferences), telegrams, facsimiles, photographs, books, transcripts, records, pamphlets, office communications (inter-office or intra-office), bulletins, manuals, minutes, marketing studies, statements, notebooks, forms, notices, tabulations, analyses, studies, microfilms, voice recordings, video tapes, tables or statistical or other data, computer-stored data (e-mail, etc.), notes or other tangible things, including copies if the copies bear any other markings or notations of any kind and each document shall include all attachments, enclosures and material underlying, supporting or use in preparation of such document and other documents that relates or refers to each such document.

D. As used herein, "relate to," relating to," "pertain to" or "pertaining to" include referring to, reflecting, regarding, constituting, concerning or having as its subject matter, in any manner whatsoever, directly or indirectly, expressly or implied, the subject matter of this specific document request.

E. As used herein, "identify," when used in reference to an individual, means to state the full name and present or last known residence and business address, his present or last known position or title and business affiliation, and his position at the time in question. Where an interrogatory requests that documents be identified, and identification of it is to include at least the following: its author, addressee, type of document, date, subject matter, and the name and address of the person or entity presently having custody of the

document or any known copies of it. If only an approximate date is given, it will be presumed that you have no recollection or specific knowledge as to the exact date.

INSTRUCTIONS

1. The Interrogatories and Request for Production of Documents set forth herein are deemed continuing and supplemental answers are required when the defendant gains additional or different information demonstrating that an answer was incorrect or incomplete when made or that the answer made is no longer true and complete.
2. All information that is not privileged and that is in the possession of defendant or his counsel, former counsel, investigators, agents, employees, or other representative is to be provided. In the event that any document is withheld under a claim of privilege, state the date of the document, its author and basis for the claim of privilege.
3. Where an individual interrogatory calls for an answer that involves more than one part, each part of the answer shall be clearly set forth so as to be understandable.
4. In the event that multiple copies of a particular document exist and the copies vary in any way, including but not limited to the addition of marginal notes, this request calls for the production of the original and all non-identical copies of the document.

INTERROGATORY NO. 1

Identify all persons who have prepared or aided in the preparation of the answers to the Interrogatories and Requests for Production of Documents contained herein, including the person executing these answers and the attached affidavit, and specify each answer that such persons prepared or aided in the preparation of the same.

ANSWER:

Joseph G. Pannette

INTERROGATORY NO. 2

State the address of your primary residence (hereinafter "residential real estate").

ANSWER:

10706 Treasure Lake Rd.
Box 470 Treasure Lake
DuBois, PA 15801

INTERROGATORY NO. 3

Identify the date on which you acquired any interest in the residential real estate identified in response to Interrogatory No. 2, and specify the nature and extent of your interest in said residential real estate.

ANSWER:

Purchased as new construction October, 1990
Property was sold at Sheriff's sale April 7, 2006
Extinguishing any interest in the property.
Respondent ia presently negotiating with purchaser in an effort to refinance debt & repurchase the property. He remains in the house pending completion of negotiations.

INTERROGATORY NO. 4

Identify any person that has any interest of any kind in the residential real estate identified in response to Interrogatory No. 2.

ANSWER:

Property was sold at Sheriff's sale 4/8/06. Unknown as to the titled owner(s) as of this date.

INTERROGATORY NO. 5

Identify all persons who reside with you at the residential real estate that is identified in response to Interrogatory No. 2.

ANSWER:

Judith Erickson (sister-in-law)
Joseph Pannette, Jr. (son)
Jared Pannette (son)

INTERROGATORY NO. 6

Identify any relationship you have with any of the persons identified in response to Interrogatory No. 5.

ANSWER:

See response to #5

INTERROGATORY NO. 7

Do the persons, if any, identified in response to Interrogatory No. 5 provide you with any compensation including, without limitation, cash, goods, services or any other items of value in exchange for being permitted to reside at said residential real estate?

ANSWER:

Judith Erickson provides financial assistance by paying utility bills and contributing to the family substance expenses. The total varies from month to month.

INTERROGATORY NO. 8

State the value of the residential real estate identified in response to Interrogatory No. 2.

ANSWER:

Respondent estimates the fair market value of the property at approximately $200,00.00

DOCUMENT REQUEST NO. 1

Produce true and correct copies of any reports, statements or other documents providing any valuation of the residential real estate identified in response to Interrogatory No. 2 including, without limitation, any appraisals conducted on said residential real estate.

Presently Respondent does not possess any documents that would be responsive to this request.

INTERROGATORY NO. 9

Identify each of your dependents, if any.

ANSWER:

None

INTERROGATORY NO. 10

Identify all sources of any income that you have received at any time since January 1, 2004.

ANSWER:

A) Marketing Specialists, Inc. - Corp ceased operations in September of 2005.
101 N. Main St.
DuBois, PA 15801

B) Bennett Hearing Aid Co. 1024 Washinton Blvd.
Williamsport, PA

INTERROGATORY NO. 11

Identify all sources of your current income and any income that you anticipate receiving in the coming 12 months.

ANSWER:

Presently, Respondent has no source of income. Respondent anticipates receiving special security benefits in the upcoming year.

DOCUMENT REQUEST NO. 2

Produce true and correct copies of your 2002, 2003, 2004 and 2005 Income Tax Returns.

Respondent provided requested documents with his February 24, 2006 response.

INTERROGATORY NO. 12

Identify any real estate in which you have any type of interest regardless of whether the real estate is located within Pennsylvania or outside Pennsylvania.

In doing so, identify:

A. The location of the real estate;

ANSWER:

None

B. The nature and extent of your interest in the real estate;

ANSWER:

None

C. Any persons who share an ownership interest in the real estate; and,

ANSWER:

None

D. The value of any such real estate.

ANSWER:

None

INTERROGATORY NO. 13

Have you, or anyone on your behalf, conveyed or transferred (hereinafter "transferred") any interest in any real estate since July 1, 2001, to date?

If so, as to each such conveyance or transfer state:

A. Description of the real estate by as well as its location;

ANSWER:

All of Respondent's interest in his residential real estate was transferred by Sheriff's sale on 4/7/06.

B. The interest transferred;

ANSWER:

C. The identity of the person to whom the real estate was transferred;

ANSWER:

D. The consideration you received for the transfer; and,

ANSWER:

E. The date of the transfer.

ANSWER:

INTERROGATORY NO. 14

Do you hold a mortgage on or other security interest in any real estate including, without limitation, any individual interest or interest held with any other party?

ANSWER:

No.

INTERROGATORY NO. 15

Do you own an automobile, motorcycle, boat, airplane or helicopter (hereinafter "vehicles") either individually or jointly with any other party?

ANSWER:

If so, state as to each such vehicle:

A. The make, model, year, color, vehicle identification number or registration number and title number, if any, of said vehicle.

1987 Bayliner--blue and white

ANSWER:

1987 Bayliner--blue and white
Hull Identification No. BL4G88CXB787

B. The name(s) of the person(s) who appear on the registration or certificate of title for said vehicle;

ANSWER:

Joseph G. Pannette

C. The current location of said vehicle;

ANSWER:

101 N. Main St.
DuBois, PA 15801

D. The date of purchase and purchase price paid for said vehicle;

ANSWER:

1987
Purchase price of vehicle is unknown.

E. The current fair market value of said vehicle;

ANSWER:

$500.00

F. The balance due on any outstanding purchase money security interest in said vehicle; and, the identity of the secured party; and,

ANSWER:

None.

G. Each person who has paid or is in the process of paying any part of the purchase money loan on said vehicle.

ANSWER:

None.

DOCUMENT REQUEST NO. 3

Produce true and correct copies of all documents relating to the purchase and financing of any vehicles identified in response to Interrogatory No. 15 above.

Respondent avers that he no longer possesses any documents that would be responsive to this request.

INTERROGATORY NO. 16

Identify all of your personal property you either own or have an interest in which have a fair market value in excess of $250 including, without limitation, jewelry, gems, artwork, precious metals, collectibles, furs, photographic equipment, cameras, guns, electronic equipment, etc.

ANSWER:

None.

INTERROGATORY NO. 17

Identify any intangible assets you either own or have an interest in which have a fair market value in excess of $250 including, without limitation, any patents, copyrighted materials, licenses, or any rights of action.

ANSWER:

None.

INTERROGATORY NO. 18

Identify all accounts of any type which you have with any banks, savings and loans, depositories, other financial institutions, brokerage firms, insurance companies or any other investment institutions. As to any such account identified in response to this interrogatory, provide the account number, the value of the account and the name, address and telephone number of the custodian of the account.

ANSWER:

Prudential whole life insurance policy. Policy # V8007170

DOCUMENT REQUEST NO. 4

Produce true and correct copies of the most recent account statement that has been issued on the accounts identified in response to Interrogatory No. 18 above.

Respondent avers that the insurance company has not issued any such documents. Premium invoice is attached.

INTERROGATORY NO. 19

Identify any certificates of deposit you either own, purchased or had an interest in that were issued at any time after July 1, 2001.

ANSWER:

None.

DOCUMENT REQUEST NO. 5

Produce a copy of all certificates of deposit identified in response to Interrogatory No. 19.

N/A

INTERROGATORY NO. 20

Identify any safety deposit box that you have used or had access to at any time since July 1, 2001.

ANSWER:

None.

INTERROGATORY NO. 21

Identify any interest that you currently have in any business or have had in any business since July 1, 2001 (hereinafter "business").

ANSWER:

Marketing Specialists, Inc.
Advanced Hearing Associates, Inc.

INTERROGATORY NO. 22

Identify any uncollected debts, accounts receivable, or other monies that are owed either to you or to any business that you have an interest in.

ANSWER:

None.

INTERROGATORY NO. 23

Identify any unsatisfied judgments of record that were entered in your favor in any action or which have been assigned to you by anyone.

ANSWER:

None.

INTERROGATORY NO. 24

Identify any right, interest, financial advantage or prospect thereof under any contract, insurance claim or other claim, cause of action or pending lawsuit that you currently have or anticipate having within the next twelve months.

ANSWER:

None.

INTERROGATORY NO. 25

Identify any assets that you have transferred to any person at any time since July 1, 2001, which had a value of $500 or more.

ANSWER:

Respondent recalls liquidating common stock shares issued by Prudential Insurance Co. at the time of that company's conversion from a mutual life insurance co. to a Common Stock Public Co. unknown to the date.

AFFIDAVIT

I, Joseph G. Pannette, do hereby state that the answers, responses and replies to the foregoing Interrogatories and Requests for Production of Documents in Aid of Execution are full, complete, true and correct to the best of my information, knowledge and belief.

Date: April 12, 2006

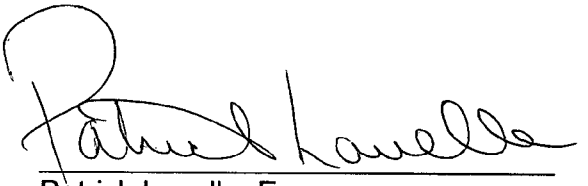
Joseph G. Pannette

This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

CERTIFICATE OF SERVICE

I, PATRICK LAVELLE, ESQ., by my signature appearing below, do hereby certify that on the 13th day of April, 2006, I served a copy of the foregoing Responses to Interrogatories and Request for the Production of Documents in Aid of Execution, by mailing same via first class mail, postage prepaid to the following:

E. Barry Creany, Esq.
Deputy Attorney General
Bureau of Consumer Protection
171 Lovell Avenue, Suite 202
Ebensburg, PA. 15931



Patrick Lavelle, Esq.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

FILED
JUN 13 2006
01:50 (w)
William A. Shaw
Prothonotary/Clerk of Courts
3 cents to Atty

PETITION FOR LEAVE TO WITHDRAW AS COUNSEL

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PETITION FOR LEAVE TO WITHDRAW AS COUNSEL

NOW COMES, John R. Ryan, counsel for Robert Fauls, Defendant above named, and petitions the Honorable Court as follows:

1. Petitioner is counsel of record for the above named Defendant.
2. Defendant has failed to respond to communications from Petitioner for a period of approximately four (4) months, or since February, 2006.
3. The Commonwealth through counsel has indicated that it wishes to proceed in this matter and has made an offer to resolve the action as it pertains to the Defendant Fauls.
4. Defendant has failed to respond to repeated attempts by Petitioner to communicate with him.

5. Petitioner cannot represent the interest of the Defendant under these circumstances.

WHEREFORE, Petitioner requests that the Court issue a rule upon the Defendant requiring him to show cause why Petitioner should not be granted leave to withdraw as counsel.

Respectfully submitted,

BELIN & KUBISTA



John R. Ryan, Esquire

FILED

JUN 13 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

RULE

AND NOW, this 13th day of June, 2006, upon consideration of the foregoing Petition for Leave to Withdraw as Counsel, a Rule is hereby issued upon the Respondent, Robert W. Fauls, to show cause why the relief requested therein should not be granted.

Rule returnable the 13th day of July, 2006, for filing a written response. Failure on the part of the Respondent objecting to the withdrawal of Petitioner as counsel by the date set forth above will result in the issuance of an Order granting the relief requested therein.

BY THE COURT:

Paul E. Cherry
Judge

FILED 3cc Atty Ryan
03:12 BN
JUN 14 2006
GK

William A. Shaw
Prothonotary/Clerk of Courts

FILED

JUN 14 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 6/14/06

X You are responsible for serving all appropriate parties.

_____ The Prothonotay's office has provided service to the following parties:

_____ Plaintiff(s) _____ Plaintiff(s) Attorney _____ Other

_____ Defendant(s) _____ Defendant(s) Attorney

_____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED
01 3:10 noCC
JUN 15 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

CERTIFICATE OF SERVICE

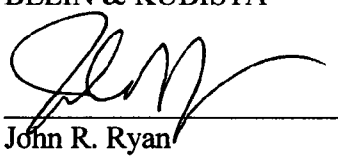
This is to certify that I have served a certified copy of Petition to Withdraw as Counsel for Defendant Robert W. Fauls and Rule on the following parties by first class, United States mail, postage prepaid, on the 15th day of June, 2006:

Robert W. Fauls
R.R. # 1, Box 26
Reynoldsville, PA 15851
Defendant

E. Barry Creany, Esquire
Senior Deputy Attorney General
Bureau of Consumer Protection
Ebensburg Regional Office
171 Lovell Avenue, Suite 202
Ebensburg, PA 15931
Attorney for Plaintiff

Jeffrey S. DuBois, Esquire
190 West Park Avenue, Suite 5
Du Bois, PA 15801
Attorney for Defendant Mark E. Jones

BELIN & KUBISTA



John R. Ryan

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ORDER

AND NOW, this 14th day of July, 2006, no response having been filed to the Court's previous Order of June 13, 2006, it is the ORDER of this Court that John R. Ryan, Esquire, be and is hereby granted leave to withdraw as counsel for ROBERT W. FAULS, Defendant in the above-captioned matter.

BY THE COURT:

Paul E. Cherry
Judge

FILED
013:54 01
JUL 17 2006
William A. Shaw
Prothonotary/Clerk of Courts

cc Attys: Creany
Donaghue
DuBois
Hopkins
Ryan

cc Pannette
101 N. Main St.
DuBois, PA 15801

cc Kerstetter
713 W. Weber Ave.
DuBois, PA 15801

cc Fauls
RR 1, Box 26
Reynoldsville, PA
15851

cc Pape
1628 Treasure Lake
DuBois, PA 15801

FILED

JUL 17 2006

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 7/17/06

___ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) ___ Plaintiff(s) Attorney X Other

___ Defendant(s) ___ Defendant(s) Attorney Attorneys: Creany, Donaghue, DuBois, Hopkins, and Ryan
Parties: Bonnette, Faulds, Kerstetter, and Pape

___ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

Filed on behalf of
Petitioner, John R. Ryan

Counsel of Record for
this Party:

John R. Ryan
Attorney-At-Law

Pa. I.D. 38739

BELIN & KUBISTA
15 N. Front Street
P.O. Box 1
Clearfield, PA 16830
(814) 765-8972

FILED
01:10:57 4cc
JUL 19 2006
Amy Ryan
William A. Shaw
Prothonotary/Clerk of Courts
Copy to CIA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

PRAECIPE FOR WITHDRAWAL OF APPEARANCE

TO WILLIAM SHAW, PROTHONOTARY:

Pursuant to the Order of Court dated July 14, 2006, please withdraw my appearance as counsel for Defendant, ROBERT W. FAULS, in the above-captioned action.

John R. Ryan, Esquire

FILED

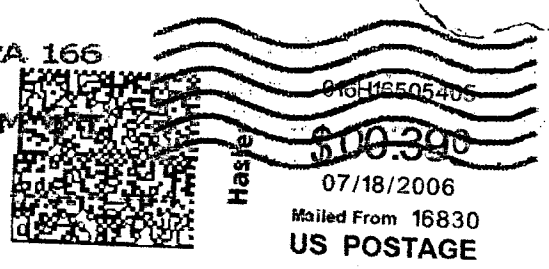
JUL 19 2006

William A. Shaw
Prothonotary/Clerk of Courts

BELIN & KUBISTA
ATTORNEYS AT LAW
15 NORTH FRONT STREET
P. O. BOX 1
CLEARFIELD, PENNSYLVANIA 16830

WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

ALTOONA PA 166
18 JUL 2006 PM



FILED
JUL 24 2006
William A. Shaw
Prothonotary/Clerk of Courts

Joseph G. Pannette
J.G. Pannette Marketing Specialists, Inc.
Marketing Specialists, Inc.
101 N. Mai
DuBois, PA

MARK101 158012005 1606 02 07/20/06
RETURN TO SENDER
:MARKETING SPECIALISTS INC
MOVED LEFT NO ADDRESS
UNABLE TO FORWARD
RETURN TO SENDER

16830-0549-49 2801+1

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA: ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER, Plaintiff	:	
vs.	:	No. 01 - 1059 - C.D.
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE, Defendants	:	

ORDER

AND NOW, this 14th day of July, 2006, no response having been filed to the Court's previous Order of June 13, 2006, it is the ORDER of this Court that John R. Ryan, Esquire, be and is hereby granted leave to withdraw as counsel for ROBERT W. FAULS, Defendant in the above-captioned matter.

BY THE COURT:

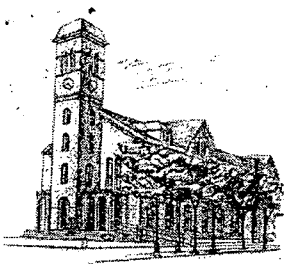
/s/ Paul E. Cherry
Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 17 2006

Attest.

Prothonotary/
Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts | **David S. Ammerman** Solicitor | **Jacki Kendrick** Deputy Prothonotary | **Bonnie Hudson** Administrative Assistant

To: All Concerned Parties

From: William A. Shaw, Prothonotary

It has come to my attention that there is some confusion on court orders over the issue of service. To attempt to clear up this question, from this date forward until further notice, this or a similar memo will be attached to each order, indicating responsibility for service on each order or rule. If you have any questions, please contact me at (814) 765-2641, ext. 1331. Thank you.

Sincerely,

William A. Shaw
Prothonotary

DATE: 7/17/06

_____You are responsible for serving all appropriate parties.

__X__The Prothonotary's office has provided service to the following parties:

_____Plaintiff(s) _____Plaintiff(s) Attorney __X__Other

_____Defendant(s) _____Defendant(s) Attorney

Attorneys: Creary, Donaghue, DuBois, Hopkins, and Ryan
Parties: Pannette, Faulds, Kerstetter, and Pape

_____Special Instructions:

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D. **CONSENT PETITION FOR A PERMANENT INJUNCTION**

FILED 3cc
m/10:50 BY Atty
MAR 06 2007 Anderson
William A. Shaw
Prothonotary/Clerk of Courts GK

COUNSEL FOR PLAINTIFF

MARGIE A. ANDERSON
DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 79513
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

COUNSEL FOR DEFENDANT ROBERT W. FAULS

JEFFREY S. DUBOIS, ESQUIRE
ATTORNEY I.D. NO. 62074
190 WEST PARK AVENUE, SUITE #5
DUBOIS, PA 15801
(814) 375-5598

Rec'd 1.11.07

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D.

CONSENT PETITION FOR A PERMANENT INJUNCTION

WHEREAS, Plaintiff, the Commonwealth of Pennsylvania (hereinafter referred to as the "Commonwealth"), commenced an action on August 2, 2001, by filing an Amended Complaint and Petition for a Permanent Injunction (hereinafter referred to as "Amended Complaint") pursuant to the *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law") seeking to enjoin the defendants from certain alleged acts or practices declared unlawful as more fully set forth in the Amended Complaint filed herein.

WHEREAS, Defendant Robert W. Fauls filed an Answer and New Matter to the Amended Complaint in which he substantially denied all material allegations set forth in those pleadings.

WHEREAS, the Commonwealth and Robert W. Fauls have agreed on a basis for settlement of the matters alleged in the Amended Complaint and hereby stipulate to the Court's

entry of an Order that incorporates the terms of this Consent Petition against Robert W. Fauls without the need for further litigation.

I. GENERAL PROVISIONS

1.1 Jurisdiction and Venue. This Court has jurisdiction of the subject matter of this action and of the parties. The Commonwealth's Amended Complaint states claims upon which relief may be granted under the provisions of the Consumer Protection Law and the *Hearing Aid Sales Registration Law*, 35 P.S. § 6700-101, *et seq.* (hereinafter referred to as the "Hearing Aid Law").

1.2 No Endorsements. Under no circumstances shall this Consent Petition or the name of the Commonwealth of Pennsylvania, Office of the Attorney General, Bureau of Consumer Protection, or any of its employees or representatives be used by Robert W. Fauls or any of his agents, representatives, successors, assigns, attorneys or other persons and/or entities acting in concert or participation with him in connection with any trade or commerce as an actual or implied endorsement or approval of Robert W. Fauls' acts, practices or methods of conducting business.

1.3 Application of Consent Petition. This Consent Petition shall apply to and bind Robert W. Fauls, whether acting directly or through his agents, representatives, successors or assigns, or acting through any corporation or other business entities whose acts, practices, or policies are directed, formulated, or controlled by Robert W. Fauls.

1.4 Entire Agreement. Robert W. Fauls acknowledges and states that this Consent Petition is entered into voluntarily and that no promises have been made by the Attorney General's Office or any member, officer, agent or representative thereof to induce Robert W. Fauls to enter into this Consent Petition except as provided herein and that this Consent Petition documents the entire agreement between the Commonwealth and Robert W. Fauls.

1.5 Appeal Waived. Robert W. Fauls waives any rights he may have to an appeal from this Consent Petition.

II. PERMANENT INJUNCTION

2.1 Application of Injunction. The injunctive provisions of this Consent Petition shall apply to Robert W. Fauls, his successors, or assigns, and all other persons or entities in active concert with Robert W. Fauls in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers.

2.2 Hearing Aid Law Injunctions. Robert W. Fauls and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Robert W. Fauls in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers are hereby permanently enjoined and restrained from directly or indirectly engaging in acts or practices in this Commonwealth or affecting consumers in this Commonwealth in violation of the Hearing Aid Law, as currently written and as may be amended from time to time. Further, Robert W. Fauls and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Robert W. Fauls shall specifically:

A. Comply with § 503.1 that requires hearing aid sellers to provide potential purchasers of hearing aids with a disclosure agreement, which shall include, but not be limited to, an itemization and disclosure of any and all fees associated with the fitting procedure or process and the sale and delivery of a hearing aid or similar device, including any authorized cancellation fees, 35 P.S. § 6700-503.1. Said disclosure agreements shall be provided to potential purchasers prior to the provision of any service regardless of whether there is a fee for the service.

B. Comply with § 504.1(a) that requires hearing aid sellers to provide purchasers of hearing aids with a 30-day money-back written guarantee, 35 P.S. § 6700-504.1(a). Robert W. Fauls shall be permanently enjoined from changing the terms of his return policy to extend the period within which he is required to pay the consumer a refund.

C. Comply with § 501.4.1(c) that prohibits hearing aid sellers from charging cancellation fees in excess of ten percent (10%) of the purchase price of the hearing aid or $150.00, 35 P.S. § 6700-504.1(c). Robert W. Fauls shall be permanently enjoined from allocating any portion of the hearing aid price to any nonrefundable fees which would result in the retention of more than the lesser of $150.00 or ten percent (10%) of the purchase price of the hearing aids when a consumer cancels pursuant to the 30-day money-back guarantee provision of §504.1 of the Hearing Aid Law, 35 P.S. § 6700-504.1.

2.3 **Consumer Protection Law Injunctions.** Robert W. Fauls and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Robert W. Fauls in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers are hereby permanently enjoined and restrained from directly or indirectly engaging in any acts or practices in violation of the Consumer Protection Law, as currently written and as may be amended from time to time.

III. FINANCIAL TERMS

3.1 Simultaneous with the execution and return of this Consent Petition, Robert W. Fauls shall pay to the Commonwealth of Pennsylvania, Office of Attorney General the sum of Two Thousand Two Hundred and 00/100 Dollars ($2,200.00). Said payment shall be by certified check, cashiers check or money order made payable to the Office of Attorney General, Bureau of Consumer Protection and shall be allocated as follows:

A. Consumer restitution in the amount of One Thousand Seven Hundred and 00/100 Dollars ($1,700.00). The amount of Three Hundred and 00/100 Dollars ($300.00) shall be distributed to Mae Norris on behalf of Reuben A. Norris. The remaining balance of One Thousand Four Hundred and 00/100 Dollars ($1,400.00) shall be deposited into the escrow account that has been established to distribute restitution to consumers after this action is concluded as to all of the named defendants

(hereinafter referred to as "M.E. Jones escrow account"). Any interest which may accumulate on the funds deposited into the M.E. Jones escrow account pursuant to this Consent Petition shall be distributed as additional restitution to those consumers due restitution in this action; and,

B. Reimbursement to the Office of Attorney General in the amount of Five Hundred and 00/100 Dollars ($500.00) as costs to be deposited into an interest-bearing account, to be used for public protection and educational purposes.

IV. COOPERATION

4.1 Robert W. Fauls shall provide his full and complete cooperation to the Office of Attorney General, Bureau of Consumer Protection, in connection with any further litigation involving any of the defendants named in this action including, but not limited to, providing testimony, sworn statements and/or attending depositions when requested by the Commonwealth.

V. MISCELLANEOUS PROVISIONS

5.1 This Consent Petition does not constitute an approval by the Commonwealth of Pennsylvania, Office of Attorney General of any of Robert W. Fauls' practices, and Robert W. Fauls shall make no representation to the contrary.

5.2 This Consent Petition shall not be construed to release Robert W. Fauls of any liability which he may have for any current or past conduct or business practices other than the conduct alleged to be in violation of the Consumer Protection Law and Hearing Aid Law as more fully set forth in the Amended Complaint filed in this matter, nor shall this Consent Petition in any way limit the Commonwealth from bringing any legal action against Robert W. Fauls for any other such current or past business practices other than the conduct alleged to be in violation of the Consumer Protection Law and Hearing Aid Law as more fully set forth in the Amended Complaint filed in this matter. Further, this Consent Petition does not limit the remedies

available to the Office of Attorney General in connection with any future violations of the Commonwealth laws or regulations by Robert W. Fauls which have not specifically been addressed herein.

5.3 The parties agree that the Clearfield County Court of Common Pleas shall maintain jurisdiction over the parties and the subject matter of this Consent Petition for purposes of enforcing the Order incorporating the provisions of this Consent Petition.

5.4 The parties stipulate to the entry of an Order incorporating the provisions of this Consent Petition which, *inter alia*, will permanently enjoin Robert W. Fauls from breaching any and all of the aforementioned provisions of this Consent Petition, and this shall serve as notice to Robert W. Fauls that the breaching of any or all of the provisions of this Consent Petition shall be sufficient cause for the Office of Attorney General, acting in the name of the Commonwealth, to petition the Clearfield County Court of Common Pleas, or any other court of competent jurisdiction, to hold Robert W. Fauls in contempt and, if found to be in violation of the Court's Order, enter sanctions against Robert W. Fauls including, without limitation, penalties provided for by the Consumer Protection Law and any other relief which the Court deems necessary and proper.

5.5 The parties agree that nothing contained herein shall be construed to waive any individual right of action by any consumer or any local, state or federal governmental entity.

WITNESS, we the undersigned parties hereby agree to the terms of the foregoing Consent Petition and for this Court's entry of an Order incorporating the same.

WITNESS, the following signatures this 2nd day of ~~January~~ March, 2007.

FOR THE PLAINTIFF

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

JESSE F. HARVEY
SENIOR DEPUTY ATTORNEY GENERAL

MARGIE A. ANDERSON
DEPUTY ATTORNEY GENERAL

FOR THE DEFENDANT

ROBERT W. FAULS

JEFFREY S. DUBOIS, ESQUIRE
ATTORNEY FOR DEFENDANT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D.

ORDER

AND NOW, this 6th day of March, 2007, upon consideration of the pleadings filed in connection with this action and the Consent Petition for a Permanent Injunction submitted by the parties and their stipulation to the entry of this Order, without a hearing or an adjudication of the facts, it is hereby ORDERED, ADJUDGED AND DECREED that the attached Consent Petition for a Permanent Injunction is hereby incorporated into and made part of this Order and shall have the same force and effect as a permanent injunction issued under § 201-4 of the Unfair Trade Practices and Consumer Protection Law.

BY THE COURT

Paul E. Cherry, J.

FILED 3cc
019:13(6)
MAR 07 2007 Atty Anderson
(GK)
William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/7/07

X You are responsible for serving all appropriate parties.

____The Prothonotary's office has provided service to the following parties:

____Plaintiff(s) ____ Plaintiff(s) Attorney ____Other

____ Defendant(s) ____Defendant(s) Attorney

____Special Instructions:

FILED
MAR 07 2007
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR.	:	CIVIL ACTION - EQUITY
	:	NO. 01-1059-C.D.
PLAINTIFF	:	
v	:	
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	
DEFENDANTS	:	

ORDER

AND NOW, this 12th day of March, 2007, upon consideration of the pleadings filed in connection with this action and the Consent Petition for a Permanent Injunction submitted by the parties and their stipulation to the entry of this Order, without a hearing or an adjudication of the facts, it is hereby ORDERED, ADJUDGED AND DECREED that the attached Consent Petition for a Permanent Injunction is hereby incorporated into and made part of this Order and shall have the same force and effect as a permanent injunction issued under § 201-4 of the Unfair Trade Practices and Consumer Protection Law and judgment shall be entered against Defendant Richard L. Kerstetter in accordance with the attached Consent Petition for a Permanent Injunction.

BY THE COURT

Paul E. Cherry, J.

FILED 3 cc Atty Anderson
01:22 PM
MAR 12 2007
(EK)
William A. Shaw
Prothonotary/Clerk of Courts

FILED

MAR 12 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/12/07

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D. **CONSENT PETITION FOR A PERMANENT INJUNCTION**

FILED
MAR 09 2007
11:20 (C)
William A. Shaw
Prothonotary/Clerk of Courts
3 CERT TO ATT

COUNSEL FOR PLAINTIFF

MARGIE A. ANDERSON
DEPUTY ATTORNEY GENERAL
ATTORNEY I.D. NO. 79513
OFFICE OF ATTORNEY GENERAL
BUREAU OF CONSUMER PROTECTION
EBENSBURG REGIONAL OFFICE
171 LOVELL AVENUE, SUITE 202
EBENSBURG, PA 15931
(814) 471-1831

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D.

CONSENT PETITION FOR A PERMANENT INJUNCTION

WHEREAS, Plaintiff, the Commonwealth of Pennsylvania (hereinafter referred to as the "Commonwealth"), commenced an action on August 2, 2001, by filing an Amended Complaint and Petition for a Permanent Injunction (hereinafter referred to as "Amended Complaint") pursuant to the *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1 *et seq.* (hereinafter referred to as the "Consumer Protection Law") seeking to enjoin the defendants from certain alleged acts or practices declared unlawful as more fully set forth in the Amended Complaint filed herein.

WHEREAS, Defendant Richard L. Kerstetter filed an Answer and New Matter to the Amended Complaint in which he substantially denied all material allegations set forth in those pleadings.

WHEREAS, the Commonwealth and Richard L. Kerstetter have agreed on a basis for settlement of the matters alleged in the Amended Complaint and hereby stipulate to the Court's entry of an Order that incorporates the terms of this Consent Petition against Richard L. Kerstetter without the need for further litigation.

I. GENERAL PROVISIONS

1.1 Jurisdiction and Venue. This Court has jurisdiction of the subject matter of this action and of the parties. The Commonwealth's Amended Complaint states claims upon which relief may be granted under the provisions of the Consumer Protection Law and *the Hearing Aid Sales Registration Law*, 35 P.S. § 6700-101, *et seq.* (hereinafter referred to as the "Hearing Aid Law").

1.2 No Endorsements. Under no circumstances shall this Consent Petition or the name of the Commonwealth of Pennsylvania, Office of the Attorney General, Bureau of Consumer Protection, or any of its employees or representatives be used by Richard L. Kerstetter or any of his agents, representatives, successors, assigns, attorneys or other persons and/or entities acting in concert or participation with him in connection with any trade or commerce as an actual or implied endorsement or approval of Richard L. Kerstetter's acts, practices or methods of conducting business.

1.3 Application of Consent Petition. This Consent Petition shall apply to and bind Richard L. Kerstetter, whether acting directly or through his agents, representatives, successors or assigns, or acting through any corporation or other business entities whose acts, practices, or policies are directed, formulated, or controlled by Richard L. Kerstetter.

1.4 Entire Agreement. Richard L. Kerstetter acknowledges and states that this Consent Petition is entered into voluntarily and that no promises have been made by the Attorney General's Office or any member, officer, agent or representative thereof to induce Richard L. Kerstetter to enter into this Consent Petition except as provided herein and that this Consent Petition documents the entire agreement between the Commonwealth and Richard L. Kerstetter.

1.5 Appeal Waived. Richard L. Kerstetter waives any rights he may have to an appeal from this Consent Petition.

II. PERMANENT INJUNCTION

2.1 Application of Injunction. The injunctive provisions of this Consent Petition shall apply to Richard L. Kerstetter, his successors, or assigns, and all other persons or entities in active concert with Richard L. Kerstetter in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers.

2.2 Hearing Aid Law Injunctions. Richard L. Kerstetter and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Richard L. Kerstetter in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers are hereby permanently enjoined and restrained from directly or indirectly engaging in acts or practices in this Commonwealth or affecting consumers in this Commonwealth in violation of the Hearing Aid Law, as currently written and as may be amended from time to time. Further, Richard L. Kerstetter and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Richard L. Kerstetter shall specifically:

A. Comply with § 503.1 that requires hearing aid sellers to provide potential purchasers of hearing aids with a disclosure agreement, which shall include, but not be limited to, an itemization and disclosure of any and all fees associated with the fitting procedure or process and the sale and delivery of a hearing aid or similar device, including any authorized cancellation fees, 35 P.S. § 6700-503.1. Said disclosure agreements shall be provided to potential purchasers prior to the provision of any service regardless of whether there is a fee for the service.

B. Comply with § 504.1(a) that requires hearing aid sellers to provide purchasers of hearing aids with a 30-day money-back written guarantee, 35 P.S. § 6700-504.1(a). Richard L. Kerstetter shall be permanently enjoined from changing the terms of his return policy to extend the period within which he is required to pay the consumer a refund.

C. Comply with § 501.4.1(c) that prohibits hearing aid sellers from charging cancellation fees in excess of ten percent (10%) of the purchase price of the

hearing aid or $150.00, 35 P.S. § 6700-504.1(c). Richard L. Kerstetter shall be permanently enjoined from allocating any portion of the hearing aid price to any nonrefundable fees which would result in the retention of more than the lesser of $150.00 or ten percent (10%) of the purchase price of the hearing aids when a consumer cancels pursuant to the 30-day money-back guarantee provision of § 504.1 of the Hearing Aid Law, 35 P.S. § 6700-504.1.

2.3 **Consumer Protection Law Injunctions.** Richard L. Kerstetter and all of his representatives, transferees, successors, or assigns, and all other persons or entities in active concert or participation with Richard L. Kerstetter in any trade and commerce in the Commonwealth of Pennsylvania or affecting any Pennsylvania consumers are hereby permanently enjoined and restrained from directly or indirectly engaging in any acts or practices in violation of the Consumer Protection Law, as currently written and as may be amended from time to time.

III. FINANCIAL TERMS

3.1 Judgment shall be entered against Richard L. Kerstetter in the amount of One Thousand and 00/100 Dollars ($1,000.00) as consumer restitution, which shall be deposited into the escrow account that has been established to distribute restitution to consumers after this action is concluded as to all of the named defendants (hereinafter referred to as "M.E. Jones escrow account"). Any interest which may accumulate on the funds deposited into this account pursuant to this Consent Petition shall be distributed as additional restitution to those consumers due restitution in this action.

3.2 Judgment shall be entered against Richard L. Kerstetter in the amount of Five Hundred and 00/100 Dollars ($500.00) as costs to be deposited into an interest-bearing account, to be used for public protection and educational purposes.

3.3 Richard L. Kerstetter shall satisfy the amount due as set forth in paragraphs 3.1 and 3.2 above by way of installment payments. Simultaneous with the execution and return of this Consent Petition, Richard L. Kerstetter shall pay the Commonwealth of Pennsylvania, Office

of Attorney General the sum of One Hundred Twenty-five and 00/100 Dollars ($125.00) as the initial payment. Respondent shall pay the remaining balance due by way of eleven (11) consecutive equal monthly installments of One Hundred Twenty-five and 00/100 Dollars ($125.00) beginning on March 15, 2007, and continuing each month thereafter until the same has been paid in full. All such monthly payments shall be in the form of certified checks, cashiers checks or money orders made payable to the Office of Attorney General, Bureau of Consumer Protection, Ebensburg Regional Office, 171 Lovell Avenue, Suite 202, Ebensburg, Pennsylvania 15931. In the event that Richard Kerstetter fails to make any one payment within thirty (30) days after the due date of the payment, or if the payment is late by fifteen (15) or more days in making any two (2) payments, regardless of whether they are consecutive or non-consecutive, the Commonwealth in its sole discretion, may accelerate the debt and declare the entire balance due and owing. Upon written demand, Richard Kerstetter shall immediately make full payment of the accelerated amount. Failure to pay the accelerated amount shall be deemed a violation of this Consent Petition and shall subject Richard Kerstetter to all of the sanctions set forth in this Consent Petition, as well as, remedies provided for by §§ 201-8, 201-9 and 201-9.1of the Consumer Protection Law and any other relief as the Court deems necessary and appropriate in order to enforce this Consent Petition. All funds collected by the Commonwealth pursuant to this Consent Petition shall be first deposited into the M.E. Jones escrow account then applied towards the amount of costs of investigation and/or for future public protection purposes.

IV. COOPERATION

4.1 Richard L. Kerstetter shall provide his full and complete cooperation to the Office of Attorney General, Bureau of Consumer Protection in connection with any further litigation involving any of the defendants named in this action including, but not limited to, providing testimony, sworn statements and/or attending depositions when requested by the Commonwealth.

V. MISCELLANEOUS PROVISIONS

5.1 This Consent Petition does not constitute an approval by the Commonwealth of Pennsylvania, Office of Attorney General of any of Richard L. Kerstetter's practices, and Richard L. Kerstetter shall make no representation to the contrary.

5.2 This Consent Petition shall not be construed to release Richard L. Kerstetter of any liability which he may have for any current or past conduct or business practices other than the conduct alleged to be in violation of the Consumer Protection Law and Hearing Aid Law as more fully set forth in the Amended Complaint filed in this matter, nor shall this Consent Petition in any way limit the Commonwealth from bringing any legal action against Richard L. Kerstetter for any other such current or past business practices other than the conduct alleged to be in violation of the Consumer Protection Law and Hearing Aid Law as more fully set forth in the Amended Complaint filed in this matter. Further, this Consent Petition does not limit the remedies available to the Office of Attorney General in connection with any future violations of the Commonwealth laws or regulations by Richard L. Kerstetter which have not specifically been addressed herein.

5.3 The parties agree that the Clearfield County Court of Common Pleas shall maintain jurisdiction over the parties and the subject matter of this Consent Petition for purposes of enforcing the Order incorporating the provisions of this Consent Petition.

5.4 The parties stipulate to the entry of an Order incorporating the provisions of this Consent Petition which, *inter alia*, will permanently enjoin Richard L. Kerstetter from breaching any and all of the aforementioned provisions of this Consent Petition, and this shall serve as notice to Richard L. Kerstetter that the breaching of any or all of the provisions of this Consent Petition shall be sufficient cause for the Office of Attorney General, acting in the name of the Commonwealth to petition the Clearfield County Court of Common Pleas, or any other court of competent jurisdiction, to hold Richard L. Kerstetter in contempt and, if found to be in violation of the Court's Order, enter sanctions against Richard L. Kerstetter including, without limitation, penalties provided for by the Consumer Protection Law and any other relief which the Court deems necessary and proper.

5.5 The parties agree that nothing contained herein shall be construed to waive any individual right of action by any consumer or any local, state or federal governmental entity.

WITNESS, we the undersigned parties hereby agree to the terms of the foregoing Consent Petition and for this Court's entry of an Order incorporating the same.

WITNESS, the following signatures this 7th day of ~~February~~ March, 2007.

FOR THE PLAINTIFF

THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

JESSE F. HARVEY
SENIOR DEPUTY ATTORNEY GENERAL

MARGIE A. ANDERSON
DEPUTY ATTORNEY GENERAL

FOR THE DEFENDANT

RICHARD L. KERSTETTER II

FILED
MAR 09 2007
William A. Shaw
Prothonotary/Clerk of Co

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D. **CONSENT PETITION FOR A PERMANENT INJUNCTION**

CONSENT DECREE

AND NOW, to wit, this 30th day of April, 2007, based on the agreements set forth in the within Consent Petition, this Court hereby approves the foregoing Consent Petition and enters this final judgment with the understanding that this court shall maintain jurisdiction over this matter for further enforcement purposes.

BY THE COURT:

FILED
01:10:12 PM
MAY 01 2007
William A. Shaw
Prothonotary/Clerk of Courts

3cc Atty Anderson
GK

Paul E. Cherry J.

FILED

MAY 01 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 5/1/07

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA BY ATTORNEY GENERAL THOMAS W. CORBETT, JR. PLAINTIFF v MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC. and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE DEFENDANTS	:	CIVIL ACTION - EQUITY NO. 01-1059-C.D. **CONSENT PETITION FOR A PERMANENT INJUNCTION**

FILED
APR 30 2007
William A. Shaw
Prothonotary/Clerk of Courts
3 cert to Atty

CONSENT PETITION

AND NOW, comes the Plaintiff, Commonwealth of Pennsylvania (hereinafter referred to as "Commonwealth"), by Thomas W. Corbett, Jr., Attorney General, through the Bureau of Consumer Protection, and presents this Consent Petition executed by all parties thereto and in connection therewith, represents the following:

WHEREAS, the Commonwealth of Pennsylvania commenced an action in the Court of Common Pleas of Clearfield County on July 3, 2001, to docket number 01-1059-C.D. by filing a Complaint and Petition for a Permanent Injunction (hereinafter referred to as "Complaint") and on August 2, 2001, by filing an Amended Complaint and Petition for a Permanent Injunction (hereinafter referred to as "Amended Complaint") pursuant to the *Unfair Trade Practices and Consumer Protection Law*, 73 P.S. § 201-1 *et seq.* (hereinafter referred to as the "Consumer

Protection Law") seeking to enjoin the defendants from certain alleged acts or practices declared unlawful as more fully set forth in the Complaint and Amended Complaint filed herein.

WHEREAS, Defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a as J.G. Pannette Marketing Specialists, Inc., Marketing Specialists Inc., Robert W. Fauls, Richard L. Kerstetter and Ricky A. Pape filed answers to the Amended Complaint.

WHEREAS, the Commonwealth filed a Motion for a Special Injunction against Defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments and Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. on July 20, 2001, which resulted in this Court entering Special Injunction Orders dated July 20, 2001, and July 24, 2001.

WHEREAS, on November 21, 2003, the Commonwealth filed in the Court of Common Pleas of Clearfield County a Petition for Contempt and on July 17, 2004, the Commonwealth filed an Amended Petition for Contempt pursuant to the Consumer Protection Law seeking to have Defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. held in contempt for their alleged violations of the Court's July 20, 2001, and July 24, 2001, Orders which granted the Commonwealth's Motion for a Special Injunction enjoining the defendants from violating provisions of the Consumer Protection Law and the Hearing Aid Sales Registration Law (hereinafter referred to as the "Hearing Aid Law").

WHEREAS, on September 1, 2005, the Clearfield County Court of Common Pleas entered an Opinion and Order relative to the Commonwealth's Petition for Contempt and

Amended Petition for Contempt finding Defendants Mark E. Jones, individually and d/b/a M.E. Jones Hearing Instruments, Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. in contempt and finding that they violated the Hearing Aid Law and the Consumer Protection Law (hereinafter referred to as "contempt action"). The Court ordered the defendants to pay restitution in the amount of Thirty Thousand Eight Hundred Thirty and 00/100 Dollars ($30,830.00) and assessed civil penalties totaling One Hundred Ninety Thousand and 00/100 Dollars ($190,000.00). The Opinion and Order provided that the defendants could purge themselves of contempt by paying the restitution and civil penalties. In addition, the Court prohibited the defendants from engaging in further trade and commerce within the Commonwealth of Pennsylvania pursuant to § 201-9 of the Consumer Protection Law.

WHEREAS, on October 26, 2005, this Court entered an Order resolving this action as to Defendant Mark E. Jones and releasing him from this case without prejudice. This Order was based upon an agreement between the Commonwealth and Mark E. Jones for satisfaction of the consumer restitution in the amount of Thirty Thousand Eight Hundred Thirty and 00/100 Dollars ($30,830.00) ordered by this Court in the contempt action. A copy of the Court's Order entered as to Mark E. Jones is attached hereto and labeled Exhibit "A".

WHEREAS, the Commonwealth and Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc. and Ricky A. Pape have agreed on a basis for settlement of the matters alleged in the Amended Complaint and hereby stipulate to the Court's entry of an Order that incorporates the terms of this Consent Petition against Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing

Specialists, Inc., Marketing Specialists, Inc. and Ricky A. Pape without the need for further litigation.

WHEREAS, Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc. and Ricky A. Pape are desirous of complying with the Consumer Protection Law and agree to the terms set forth herein below.

NOW THEREFORE, Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc. and Ricky A. Pape agree for themselves, their heirs, successors in interest, assigns, agents, employees or other persons acting on their behalf, as follows:

I. GENERAL TERMS

A. DEFENDANTS JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC. AND MARKETING SPECIALISTS, INC.

1. Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. agree to refrain from any action or practices which violate the Consumer Protection Law and the Hearing Aid Law.

2. Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. consent and agree that, as an element of this settlement, they shall be permanently enjoined from any ownership, operation, employment or involvement, passive or active, individually, in any entity or with any person, dealing with hearing aid sales, fittings, service, consulting, advertising,

marketing, promotion, manufacture or repairs, and shall relinquish any licenses and/or registrations in that regard.

3. Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. shall be subject to a judgment in favor of the Commonwealth in the total amount of Two Hundred Twenty Four Thousand Six Hundred Seventy and 00/100 Dollars ($224,670.00), and the filing of this Consent Petition shall constitute notice of and entry of said judgment.

4. This judgment shall be in addition to any monetary amounts owed pursuant to the September 1, 2005, Order and shall consist of the following:

(A) Consumer restitution in the amount of One Hundred Seven Thousand Six Hundred Seventy and 00/100 Dollars ($107,670.00) as set forth in Exhibit "B" attached hereto;

(B) Civil penalties in the amount of One Hundred Twelve Thousand and 00/100 Dollars ($112,000.00); and,

(C) Costs to be deposited into an interest-bearing account, to be used for public protection purposes and education purposes, in the amount of Five Thousand and 00/100 Dollars ($5,000.00).

B. DEFENDANT RICKY A. PAPE

1. Defendant Ricky A Pape agrees to refrain from any action or practices which violate the Consumer Protection Law and the Hearing Aid Law.

2. Defendant Ricky A. Pape consents and agrees that, as an element of this settlement, he shall be permanently enjoined from any ownership, operation, employment or involvement, passive or active, individually, in any entity or with any person dealing with hearing aid sales, fittings, service, consulting, advertising, marketing, promotion,

manufacture or repairs, and shall relinquish any licenses and/or registrations in that regard.

3. The Commonwealth has entered into a separate Stipulation and Order with Ricky A. Pape, a Co-Defendant in this action, in an adversary proceeding filed in the U.S. Bankruptcy Court for the Western District of Pennsylvania at Adversary Number 06-7031BM, the terms of which are binding upon both the Commonwealth and Defendant Ricky A. Pape, and incorporated herein by reference.

C. DEFENDANTS ROBERT W. FAULS AND RICHARD L. KERSTETTER

1. This action has been resolved as to Defendant Robert W. Fauls by way of an Order incorporating a Consent Petition for a Permanent Injunction which was entered on March 6, 2007.

2. This action has been resolved as to Defendant Richard L. Kerstetter by way of an Order incorporating a Consent Petition for a Permanent Injunction which was entered on March 12, 2007.

II. PAYMENT TERMS

1. Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. obligation to pay the judgment set forth in paragraphs I(A)(3) and (4) above shall be conditioned upon the following:

(a) any effort by Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. to re-enter the hearing aid business by seeking the dissolution of the above injunction; or

(b) in the event that a court of competent jurisdiction determines that Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists,

Inc. and Marketing Specialists, Inc. have violated the terms of the injunction imposed herein. In the case of such a finding, Defendant Joseph G. Pannette's obligation to pay the judgment shall be in addition to any other monetary or other sanctions which may be imposed for such a violation.

III. FINANCIAL TERMS

1. The Commonwealth's agreement to enter into this Consent Petition with Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc. and Marketing Specialists, Inc. is expressly premised upon the truthfulness, accuracy and completeness of the financial statement of Joseph G. Pannette dated April 19, 2007, which Joseph G. Pannette provided to the Commonwealth. Joseph G. Pannette reaffirms and attests to the truthfulness, accuracy, and completeness of said financial statement by entering into this Consent Petition. This financial statement contains material information which the Commonwealth has relied upon in negotiating and agreeing to this Consent Petition.

2. If, upon petition filed by the Commonwealth, the Court finds that Joseph G. Pannette materially misrepresented the value of any asset, or made any other material misrepresentation in his financial statement dated April 19, 2007, or omitted any material asset from said financial statement, the judgment against Joseph G. Pannette in the amount of Two Hundred Twenty Four Thousand Six Hundred Seventy and 00/100 Dollars ($224,670.00) shall become immediately due and payable.

3. In the event that restitution monies are paid to the Commonwealth pursuant to said judgment, such monies shall be deposited into a fund administered by the Office of Attorney General and used for equitable relief including, without limitation, restitution to those consumers identified in Exhibit "B" who have claims that remain unsatisfied. After satisfaction of any such

claims, or in the event that any restitution funds are unclaimed or that any of the consumers listed in Exhibit "B" cannot be reasonably located, the balance in said fund shall revert to and be paid to the Office of Attorney General as costs to be used for future consumer protection or public protection purposes.

4. For purposes of this Consent Petition the failure to disclose an asset worth in excess of one thousand and 00/100 dollars ($1,000.00) or misstatement of an asset's value in excess of one thousand and 00/100 dollars ($1,000.00) shall be deemed material.

IV. MISCELLANEOUS TERMS

1. Defendant Joseph G. Pannette shall provide his full and complete cooperation to the Office of Attorney General, Bureau of Consumer Protection in connection with any further litigation involving any of the defendants named in this action including, but not limited to, providing testimony, sworn statements and/or attending depositions when requested by the Commonwealth.

2. Defendant Joseph G. Pannette shall surrender all applicable licenses issued by the Pennsylvania Department of Health to that agency and, in the event that he seeks to re-enter the hearing aid business pursuant to section II(1)(a) of this consent agreement, he shall reapply for the appropriate license(s).

3. This Court shall maintain jurisdiction over the subject matter of this Consent Petition and/or Order accompanying it; however, nothing contained herein shall be construed to waive or limit any right of action by any consumer, person or entity, or by any local, state, federal or other governmental entity.

NOW THEREFORE, before any testimony or evidence has been taken herein, and without trial or adjudication of the facts or law, Defendants Joseph G. Pannette, individually and d/b/a J.G. Pannette Marketing Specialists, Inc., Marketing Specialists, Inc. and Ricky A. Pape agree by the signing of this Consent Petition for Permanent Injunction, and this Court orders, that they shall be permanently enjoined from breaching any and all of the aforementioned prohibitions and that the execution of this agreement constitutes notice to the Defendants of said Injunction, which shall be deemed an Order within the meaning of § 201-8 and § 201-9 of the Consumer Protection Law for the purpose of enforcement of this Injunction, and Defendants may be subject to the imposition of additional penalties of up to Five Thousand and 00/100 Dollars ($5,000.00) apiece for any violations of this agreement, together with other sanctions for contempt as the court may deem necessary or proper.

The undersigned hereby consent to the foregoing Consent Petition to this Honorable Court for the making and entry of a Consent Decree for Permanent Injunction.

Dated this 27th day of April, 2007.

FOR THE PLAINTIFF:
COMMONWEALTH OF PENNSYLVANIA
THOMAS W. CORBETT, JR.
ATTORNEY GENERAL

J.P. McGOWAN
SENIOR DEPUTY ATTORNEY GENERAL

BY: _____
MARGIE A. ANDERSON
DEPUTY ATTORNEY GENERAL
COUNSEL FOR PLAINTIFF

FOR THE DEFENDANTS:

_____
JOSEPH G. PANNETTE,
individually and d/b/a
J.G. MARKETING SPECIALISTS, INC.

MARKETING SPECIALISTS, INC.

_____
JOSEPH G. PANNETTE
PRESIDENT

_____
RICKY A. PAPE

_____
DAVID C. SHIPMAN, ESQ.
COUNSEL FOR DEFENDANTS

IN THE COURT OF COMMON PLEAS

OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

COMMONWEALTH OF PENNSYLVANIA, ACTING BY ATTORNEY GENERAL D. MICHAEL FISHER	:	
-vs-	:	No. 01-1059-CD
MARK E. JONES, individually and d/b/a M.E. JONES HEARING INSTRUMENTS and JOSEPH G. PANNETTE, individually and d/b/a J.G. PANNETTE MARKETING SPECIALISTS, INC., and MARKETING SPECIALISTS, INC., and ROBERT W. FAULS, RICHARD L. KERSTETTER and RICKY A. PAPE	:	

I hereby certify this to be a true and attested copy of the original statement filed in this case.

OCT 26 2005

Attest.

Prothonotary/
Clerk of Courts

O R D E R

NOW, this 26th day of October, 2005, Defendant Mark E. Jones and the Plaintiff Commonwealth of Pennsylvania by Attorney General Thomas W. Corbett, Jr., have appeared through counsel and advised the Court that they have entered into an agreement providing for satisfaction of the monetary judgment that was entered against Mark E. Jones, pursuant to the Order dated September 1, 2005. Based upon the agreement of the parties for satisfaction of the monetary judgment entered against Defendant Mark E. Jones and agreement for resolution of this action as to Defendant Mark E. Jones, this Court's Injunctive Orders of July 24, 2001, and September 1, 2005,

EXHIBIT "A"

are rescinded as to Defendant Mark E. Jones. Defendant Mark E. Jones may engage in further trade and commerce within the Commonwealth of Pennsylvania subject to the following injunctive provisions:

1. Defendant Mark E. Jones shall not engage in the business of selling or practice of fitting and selling hearing aids without first obtaining a registration certificate, if not currently held, from the Department of Hearing permitting him to engage in such activity;

2. While engaged in the business of selling or the practice of fitting and selling hearing aids, Defendant Mark E. Jones:

A. shall fully comply with Sections 401, 402, 403, 502, 503.1, 504, 504.1, 505, 506 and 507 of the Hearing Aid Sales Registration Law;

B. shall not engage in any activity declared unlawful by Section 605 of the Hearing Aid Sales Registration Law;

C. shall not engage in such business or practice under an unregistered fictitious name in violation of Section 310 of the Hearing Aid Sales Registration Law; and,

D. shall monitor and supervise all hearing aid fitters employed by him to engage in any such business or practice.

3. While engaged in the business of selling or the practice of fitting and selling hearing aids, Defendant Mark E. Jones shall otherwise comply fully with the Hearing Aid Sales Registration Law and the Unfair Trade Practices and Consumer Protection Law;

Defendant Mark E. Jones is hereby released from this case, without prejudice.

BY THE COURT,

/s/ Paul E. Cherry

Judge

CONSUMER RESTITUTION SCHEDULE

NAME	AMOUNT	
Ardry, Betty	$	3,300.00
Ardry, Howard	$	3,300.00
Ball, Harold	$	4,800.00
Becker, Doris	$	4,400.00
Best, Eileen	$	2,130.00
Bettum, Gerd	$	2,700.00
Boone, Grant	$	300.00
Colwell, Russell	$	2,200.00
Counselman, Paul	$	1,900.00
Diehl, Robert	$	4,800.00
Diller, R. L.	$	1,400.00
Duda, Stanley	$	1,900.00
Fedeli, Philip	$	5,300.00
Fisher, Glenn	$	4,300.00
Fleegle, Connie	$	3,300.00
Fleegle, Ronald	$	3,300.00
Fritz, Frances	$	3,700.00
Fritz, Ulmar	$	3,700.00
Halaszynski, Eleanor	$	1,000.00
Hastings, Stanley	$	2,080.00
Keller, Jean	$	195.00
Knarr, Denny	$	4,800.00
Leete, Tom	$	4,100.00
Litzenberger, Donald	$	3,400.00
Litzenberger, Margaret	$	1,700.00
Martinko, John W.	$	3,400.00
Petrunyak, Robert	$	4,395.00
Plowman, Irene	$	1,900.00
Rimer, Eileen	$	300.00
Sandstrom, John	$	1,980.00
Schrecongost, Dale	$	1,600.00
Schurckers, Mae	$	4,500.00
Smail, Arnold	$	3,350.00
Smith, L. Marie	$	365.00
Smith, Thomas	$	2,500.00
Styers, Ronald	$	2,875.00
Tressler, Harold	$	900.00
Williams, Eleanor	$	5,600.00
TOTAL	**$**	**107,670.00**

EXHIBIT "B"

FILED
APR 30 2007
William A. Shaw
Prothonotary/Clerk of Courts