

STATE OF VERMONT

SUPERIOR COURT  
WASHINGTON UNIT

CIVIL DIVISION  
Docket No. 22-CV-04183

STATE OF VERMONT, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 CHARLES CRAWFORD; GLOBAL ENTERPRISES )  
 HOLDING LLC; KING CRAWFORD )  
 ENTERPRISES, LLC; KING CRAWFORD )  
 ENTERPRISES, LLC D/B/A NANO HEARING AIDS; )  
 KING CRAWFORD ENTERPRISES, LLC D/B/A )  
 NANO HEARING TECHNOLOGY; KING )  
 CRAWFORD ENTERPRISES, LLC D/B/A NANO, )  
 NANO HEARING TECH OPCO, LLC; and )  
 SANCUS CAPITAL GROUP, LLC; )  
 )  
 Defendants. )

**[Proposed] CONSENT ORDER AND FINAL JUDGMENT ORDER  
AS TO DEFENDANT HEARING AT HOME LLC,  
(FORMERLY KNOWN AS “NANO HEARING TECH OPCO, LLC”)**

Plaintiff State of Vermont (“Plaintiff”) filed a Complaint for permanent injunction and other relief in this matter pursuant to the Vermont Consumer Protection Act, 9 V.S.A. § 2451 et seq. (“VCPA”) alleging that Defendants committed violations of the VCPA. Plaintiff by its counsel, and Defendant Hearing at Home, LLC, formerly known as Nano Hearing Tech Opco, LLC or Nano Hearing Aids or Nano<sup>1</sup> (collectively “Defendant NHTO”) have agreed to the entry of this Consent Order and Final Judgment Order<sup>2</sup> (“Judgment”) by the Court without trial or adjudication of any issue of fact or law.

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<sup>1</sup> Defendant Hearing at Home, LLC sells products and services under the Nano Hearing Aids brands.  
<sup>2</sup> This Judgment is by and between the State of Vermont and Defendant NHTO . The remaining Defendants Charles Crawford, Global Enterprises Holding LLC; King Crawford Enterprises, LLC; King Crawford

**IT IS HEREBY ORDERED THAT:**

**I. FINDINGS**

1.1. This Court has jurisdiction over the subject matter of this lawsuit and over all Parties.

1.2. The terms of this Judgment shall be governed by the laws of the State of Vermont.

1.3. The State contends that entry of this Judgment is the public interest.

1.4. The Judgment reflects a negotiated agreement between the State of Vermont and Defendant NHTO.

1.5 Defendants are willing to enter into this Judgment regarding the Covered Conduct to resolve the Vermont Attorney General's concerns under Vermont consumer protection laws as to the matters addressed in this Judgment and thereby avoid significant expense, inconvenience and uncertainty.

1.6. The Parties have worked together and agreed in good faith to resolve the issues raised by the Covered Conduct by entering into this Judgment.

1.7. This Judgment shall not be construed or used as a waiver or limitation of any defense otherwise available to Defendants in any other action, or of Defendants' right to defend themselves from, or make any arguments in, any private individual or class action claims or suits relating to the subject matter or terms of this Judgment.

1.8. This Judgment is made without trial or adjudication of any issue of fact or law or finding of liability. Notwithstanding the foregoing, the State may file an action to enforce the terms of this Judgment.

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Enterprises LLC d/b/a Nano Hearing Aids; King Crawford Enterprises, LLC d/b/a Nano Hearing Technology; and King Crawford Enterprises LLC, d/b/a/ Nano are not party to this agreement. Defendant Sancus Capital Group LLC was dismissed from this matter without prejudice on May 17, 2023 and, upon acceptance of this proposed Final Order, will be dismissed from the action with prejudice.

1.9. No part of this Judgment shall create a private cause of action or confer any right to any third party for violation of any federal or state statute, except that the State may file an action to enforce the terms of this Judgment.

## II. DEFINITIONS

The following definitions shall be used in construing the Judgment:

2.1. The “Applicable Period,” for the purposes of Net Cash Flow” defined below, means the preceding 12 months from the anniversary of the Effective Date of this Judgment.

2.2 “Consumer” means any person or business who purchased over the counter hearing aids or related products from Defendant NHTO.

2.3. “Covered Conduct” means any business, promotional and marketing practices which resulted in alleged unfair methods in commerce, and deceptive acts and practices including: (i) misleading and deceptive advertising and promotions; (ii) misrepresenting the design and effectiveness of the over-the-counter hearing aids; (iii) promoting products by means of a deceptive online hearing test; (iv) misrepresenting products as being on sale when it was a perpetual sale; (v) failing to disclose that OTC Hearing Aids are restricted to consumers 18 years or older; (vi) failing to disclose and/or conceal from Consumers Promotions (as defined below) that voided the consumer’s ability to effectuate a return; which were the subject of the investigation by the State pursuant to Vermont’s Consumer Protection Act, 9 V.S. A. § 2460.

2.4. “Defendant NHTO” or “Defendant “Nano Tech Opco, LLC” or “Defendant” means Hearing at Home, LLC, formerly known as Nano Hearing Tech Opco, LLC, and all of its officers, directors, employees, representatives, agents, affiliates, parents, subsidiaries, operating companies, assigns, and successors. This agreement does not include remaining Defendants. See FN 1 above.

2.5. “Effective Date” means the date on which a copy of the Judgment, duly executed by Defendant NHTO and the Vermont Attorney General, is approved by, and becomes a Judgment of the Court.

2.6. "Net Cash Flow" shall mean, for the Applicable Period, the Company’s consolidated net income, adjusted for:

- (i) any non-cash items deducted in determining such net income (including depreciation and amortization),
- (ii) less any non-cash items added in determining such net income,
- (iii) plus or minus changes in working capital for such period,
- (iv) less principal payments of Indebtedness made during such period,
- (v) less Capital Expenditures or Investments, and
- (vi) less any other adjustments that are appropriate given the circumstances, including extraordinary or one-time income items.

2.7. “Net Cash Flow Exclusions:” The Net Cash Flow sweep shall not apply to:

- (i) amounts required to maintain a Minimum Liquidity Reserve related to any Credit Agreement
- (ii) Restricted Cash or cash subject to any Liens, and
- (iii) The Net Cash Flow Sweep will not be made if violates a Credit Agreement or would cause the Company to be in default under a credit agreement

2.8. “Parties” means Defendant NHTO as defined in Section 2.4 and the Plaintiff.

2.9. “Promotional,” “Promoting,” “Promoted,” “Promotions” or “Promote” shall mean representations made to consumers, and other practices intended to increase sales or that attempt to influence consumers, including direct-to-consumer marketing.

### **III. LEGAL FRAMEWORK**

3.1. The Vermont Consumer Protection Law means the Vermont Consumer Protection Act, 9 V.S.A. § 2451, *et seq.*, and any related case law.

3.2. The CPA prohibits unfair and deceptive acts and practices in commerce. 9 V.S.A. § 2453.

3.3. The Vermont Attorney General (“Attorney General”), pursuant to 3 V.S.A. § 152, and 9 V.S.A §2458, has authority to enforce the VCPA9 V.S.A. § 2453.

#### **IV. INJUNCTIVE RELIEF**

4.1. Defendant NHTO shall comply fully with all provisions of the Vermont law, including the VCPA.

4.2. Defendant NHTO shall not use any online hearing tests which have not previously received FDA approval.

4.3. Defendant NHTO shall maintain its revised webpage, advertising, and sales scripts to remove all misleading language; including holding itself out as employing hearing experts if no such experts are on staff, or stating that its products are proper for anyone other than those with mild to moderate hearing loss.

4.4. Defendant NHTO shall maintain its revised return policy to provide clear and concise disclaimers of its timelines, policy, and money back guarantee policy.

#### **V. MONETARY TERMS**

##### **A. Penalty Payment**

5.1. No Later than 30 days after the Effective Date of this Judgment, Defendant NHTO shall pay the State of Vermont a total amount of \$100,000.00, in civil penalties for alleged violations of the Vermont Consumer Protection Act. Defendant shall make the payment to the State of Vermont” and send payment to: Merideth Chaudoir, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, Vermont 05609.

##### **B. Restitution**

5.2. No Later than 30 days after the Effective Date of this Judgment, Defendant NHTO shall establish a restitution fund for Vermont Consumers equal to \$41,500.00. Any remaining

funds shall be distributed in accordance with Vermont laws, including forwarded to unclaimed property.

5.3. No later than 30 days after the Effective Date of this Judgment, Defendant NHTO shall provide notice of the restitution fund to each Consumer who purchased products from March 2021 to December 2024, and provide the Attorney General with a copy of the notice and list of Consumers to receive the credit.

5.4. No later than six months after the Effective Date, Defendant NHTO shall provide the Attorney General with a summary of the payment made to each Consumer.

**C. Suspended Penalties.**

5.5. Upon submission and review of financial statements for the years 2023 and 2024, and a current sworn statement of assets and liabilities, it has been determined by the Office of the Attorney General that Defendant NHTO lacks the ability to make payments required in paragraphs 5.1 and 5.2 above. Based on Defendant NHTO's demonstrated inability to pay, Defendant NHTO's obligation to pay restitution and penalties will be suspended, subject to the conditions set forth below:

5.5.1. Each quarter after the Effective Date of the Judgment, Defendant NHTO shall submit to the Vermont Attorney General's Office and sworn statement of assets and liabilities.

5.5.2 Upon the written request of the Vermont Attorney General's Office, Defendant NHTO shall further provide accurate copies of its tax returns.

5.5.3. Defendant NHTO shall pay to the State of Vermont 25% of its Net Cash Flow, as defined above, once annually within 15 days of the anniversary of the Effective

Date of this Judgment until Defendant NHTO has satisfied the restitution and civil penalties totaling \$141,500.00 of this Judgment.

5.5.4. Further, in the event that Defendant NHTO wins its current legal action<sup>3</sup> in Arizona by court order or enters settlement resulting in a monetary payment of more than \$2,000,000.00 after legal fees and costs, Defendant NHTO shall first pay restitution discussed in Paragraph 5.2 above and then, Defendant NHTO shall pay the civil penalties discussed in Paragraph 5.1.

5.6. After four years of submitting the above-described documentation or payment in full of the amounts described in Paragraphs 5.1 and 5.2, Defendant NHTO shall have no further liability or obligation to report to the Vermont Attorney General's Office.

5.7. The State may use the payment in any of the following ways: (1) to pay for attorney's fees and other costs of investigation and litigation; (2) to place in, or apply to, consumer protection enforcement, including future consumer protection enforcement, consumer education, litigation, or local consumer aid or revolving funds; (3) to defray the costs of the inquiry leading to this final Judgment; (4) for any lawful purpose, at the sole discretion of the Attorney General; and (5) pursuant to 32 V.S.A. § 462.

## VI. MOST FAVORED NATIONS PROVISION

6.1. **Most Favored Nation Provision.** If Defendant NHTO or any of its Subsidiaries or officers enters into any settlement agreement with any party, including other states, ("Non-Settling Party") within 24 months (24) after the Effective Date that resolves claims similar to the released

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<sup>3</sup> Defendant NHTO is in litigation in Arizona in which it alleges that prior counsel for KCE and Nano Hearing Aids committed legal malpractice in failing to inform Defendant of several ongoing investigations by various State Attorneys General, including the Attorney General of Vermont, and negligently responding to those investigations. See Hearing at Home, LLC v. Clark Hill, PLC, et al., CV 2023-015013, Superior Court of Arizona, Maricopa County.

Claims on payment terms that are more favorable to Plaintiff than the payment terms of this Judgment, the Plaintiff may seek review pursuant to Paragraph 6.3, of the overall payment terms of this Judgment (both civil penalties and restitution amounts) so that Plaintiff may obtain overall payment terms at least as favorable as those obtained by such other Non-Settling Party.

6.2. For purposes of Paragraph 6.1 above,

6.2.1. The “overall payment terms” paid to a Non-Settling Party are more favorable than those paid to the Plaintiff if: the 2024 present dollar value<sup>4</sup> of all settlement payments to a Non-Settling Party, divided by the number of products sold in that Non-Settling Party state is greater than overall payment terms<sup>5</sup> of this Judgment.

6.2.2. Claims by a Non-Settling Party are “similar” to the Released Claims if, after replacing the Non-Settling Party for the State of Vermont in the definition of Released Claims, the Non-Settling State’s claims would be included under the definition of Released Claims.

6.3. If Defendant NHTO enters a settlement with a Non-Settling Party involving claims similar to the Released Claims, it shall provide a copy of the settlement agreement, relevant consent judgment, assurance of discontinuance, or assurance of compliance within thirty (30) days of the effective date of such settlement to Plaintiff.

6.3.1. If Plaintiff believes that the overall payment terms of an agreement between Defendant NHTO (or its Subsidiary) and a Non-Settling Party are more favorable than

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<sup>4</sup> For purposes of Section IX, the 2024 present dollar value of payments made in 2025 or later to the Plaintiff or to any other settling party will be discounted at a rate of 4.4% per year, compounded annually.

<sup>5</sup> Defendant shall provide Plaintiff with sales records of its entities to confirm overall payment terms are not more favorable.



those in this Judgment, Defendant NHTO and Plaintiff shall engage in the following process:

6.3.1.1. Plaintiff shall provide notice, within sixty (60) calendar days of the date on which Plaintiff receives the settlement agreement or consent judgment, to Defendant NHTO of its intent to seek revision of this Judgment to be modified to provide payment terms that are, on an overall basis, as favorable as those obtained by the Non-Settling Party. Such notice shall be confidential and not disclosed publicly to the extent allowed by law and shall state, in detail, the basis for the Plaintiff's belief that it is entitled to a modification of this Judgment.

6.3.1.2. Defendant NHTO shall, within thirty (30) calendar days of receipt of the Plaintiff's notice, provide a response to the Plaintiff, explaining its position, in detail, as to whether the Plaintiff is entitled to more favorable overall payment terms than those provided for in this Judgment.

6.3.1.3. In the event Plaintiff and Defendant NHTO do not reach agreement as to the application of Paragraph 6.1 above, Plaintiff may seek judicial review from the Court as to the applicability of Paragraph 6.1 above and modification of Defendant's financial obligations thereunder if warranted. The Court's review shall be limited to whether the overall payment terms to the Non-Settling Party are more favorable than those to Plaintiff, as defined in Paragraph 6.2(a) above, and if so, the sum to be paid to Plaintiff to eliminate such disparity.

6.4. This Section VI does not apply to, and there is no ability for Plaintiff to seek or obtain revision of this Judgment based on, any Non-Settling Party's agreement with Defendant NHTO or its subsidiaries that is entered into with: (a) a Non-Settling Party that has advanced

litigation against Defendant NHTO or its subsidiaries beyond the point at which one or more claims has survived a motion to dismiss or (b) a Non-Settling Party that has obtained any court order or judicial determination that grants judgment (in whole or in part) following a bench trial or a jury trial against Defendant.

## **VII. RELEASE**

7.1. Released Claims. By its execution of this Judgment, the State of Vermont releases and forever discharges Defendant NHTO and its past and present officers, directors, shareholders, employees, representatives, agents, affiliates, parents, subsidiaries, predecessors, attorneys, assigns and successors (collectively, the “Releasees”) from the following: all civil causes of action, claims, damages, restitution, fines, costs, attorney’s fees, remedies or penalties that the State of Vermont Attorney General has asserted or could have asserted against the released Parties under the Vermont consumer protection laws resulting from the Covered Conduct up to and including the Effective Date except as set forth in paragraph 7.2 below.

7.2. Claims Not Covered. Notwithstanding any term of this Judgment, specifically reserved and excluded from the Released Claims in Paragraph 7.1 as to any entity or person, including Releasees, are any and all of the following, to which Defendant NHTO expressly reserves each and every available defense:

7.2.1. Any criminal liability that any person or entity, including Releasees, has or may have to the State of Vermont;

7.2.2. Any civil or administrative liability that any person or entity, including Releasees, has or may have to the State of Vermont not expressly covered by the release in Paragraph 7.1, including, but not limited to, any and all of the following claims:

- i. State or federal antitrust violations;
- ii. Claims involving “best price,” “average wholesale price,” “wholesale acquisition cost,” or any reporting practices;
- iii. Medicaid claims, including, but not limited to, federal Medicaid device rebate statute violations, Medicaid fraud or abuse (whether common law, statutory or otherwise), and/or kickback violations related to any state’s Medicaid program;
- iv. State false claims violations; and
- v. Claims to enforce the terms and conditions of this Judgment.

7.2.3. Any claims individual consumers have or may have under any of the above-cited Consumer Protection laws against any person or entity, including the Releasees.

7.3. Nothing contained in this Judgment shall relieve Defendant NHTO of the obligations it maintains under any other judgment, order, or agreement relating to any of Defendant NHTO’s products.

## **VIII. ENFORCEMENT**

8.1. For the purposes of resolving disputes with respect to compliance with this Judgment, should the Attorney General have a reasonable basis to believe that Defendant NHTO and/or its subsidiaries and/or related entities have engaged in a practice that violates a provision of this Judgment subsequent to the Effective Date, then the Attorney General shall notify Defendant NHTO in writing of the specific objection, identify with particularity the provision of this Judgment that the practice appears to violate, and give Defendant NHTO thirty (30) days to respond to the notification; provided, however, that the Attorney General may take any action if

the Attorney General believes that, because of the specific practice, a threat to the health or safety of the public requires immediate action. Upon receipt of written notice, Defendant NHTO shall provide a good faith written response to the Attorney General's notification, containing either a statement explaining why Defendant NHTO believes it is in compliance with the Judgment, or a detailed explanation of how the alleged violation occurred and a statement explaining how Defendant intends to remedy the alleged violation. The Attorney General may agree, in writing, to provide Defendant NHTO with additional time beyond the thirty (30) days to respond to a notice. Nothing in this section shall be interpreted to limit the State of Vermont's civil investigative demand ("CID") authority, to the extent such authority exists under applicable law.

8.2. Upon giving Defendant NHTO thirty (30) days to respond to the notification described above, the Attorney General shall also be permitted reasonable access to inspect and copy relevant, non-privileged, non-work product records and documents in the possession, custody, or control of Defendant NHTO that relate to Defendant NHTO's compliance with each provision of this Judgment pursuant to the State's CID authority. If the Attorney General makes or requests copies of any documents during the course of that inspection, the Attorney General will provide a list of those documents to Defendant NHTO.

8.3. The State may assert any claim that Defendant NHTO has violated this Judgment in a separate civil action to enforce compliance with this Judgment, or may seek any other relief afforded by law for violations of the Judgment, but only after providing Defendant NHTO an opportunity to respond to the notification described in Paragraph 8.1 above; provided, however, that the Attorney General may take any action if the Attorney General believes that, because of the specific practice, a threat to the health or safety of the public requires immediate action.

8.4. The Parties stipulate that if the Vermont Superior Court enters an order finding that Defendant NHTO has violated the Judgment, including violations of 23 V.S.A. § 1392, Defendant NHTO will pay a penalty of \$10,000 to the State of Vermont for each separate violation of the Judgment.

## **IX. ADDITIONAL PROVISIONS**

9.1. Nothing in this Judgment shall be construed to authorize or require any action by Defendant NHTO in violation of applicable federal, state, or other laws.

9.2. Modification: The Judgment may be modified by a stipulation of the Parties, once it is approved by and becomes a Judgment of the Court, or by court proceedings resulting in a modified judgment of the Court.

9.3. Defendant NHTO shall not cause or encourage third parties, nor knowingly permit third parties acting on its behalf, to engage in practices from which Defendant NHTO is prohibited by this Judgment.

9.4. The Attorney General may, at her sole discretion, agree in writing to provide Defendant NHTO with additional time to perform any act required by this Judgment.

9.5. The acceptance of this Judgment by the State of Vermont shall not be deemed approval by the State of Vermont of any of Defendant NHTO's business practices. Further, neither Defendant NHTO nor anyone acting on its behalf shall state or imply, or cause to be stated or implied, that the State or any other governmental unit of the State has approved, sanctioned or authorized any practice, act, or conduct of Defendant NHTO.

9.6. Any failure by any party to this Judgment to insist upon the strict performance by any other party of any of the provisions of this Judgment shall not be deemed a waiver of any of

the provisions of this Judgment, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Judgment.

9.7. Entire Agreement: This Judgment represents the full and complete terms of the settlement entered into by the Parties. In any action undertaken by the Parties, no prior version of this Judgment and no prior version of any of its terms that were not entered by the Court in this Judgment, may be introduced for any purpose whatsoever.

9.8. Jurisdiction: This Court retains jurisdiction of this Judgment and the Parties for the purpose of enforcing and modifying this Judgment and granting such additional relief as may be necessary and appropriate.

9.9. Notice: All Notices under this Judgment shall be provided to the following via email and US First Class Mail:

Defendant NHTO:

Ryan Zackon  
Chief Executive Officer  
4225 Executive Square, Suite 600  
La Jolla, California 92037  
E-mail: ryan@nanohearingaids.com

Copy to Defendant NHTO's attorney:

Michael L. Simes, Esq.  
Simes Law P.C.  
405 Lexington Avenue, 26<sup>th</sup> Floor  
New York, NY 10174  
Telephone: 646-499-0676  
E-mail: mike@simespc.com

Vermont Attorney General:

Merideth C. Chaudoir,  
Assistant Attorney General  
Public Protection Unit  
Office of the Attorney General  
109 State Street  
Montpelier, Vermont 05609  
Telephone: 802-828-5479  
E-mail: merideth.chaudoir@vermont.gov

**APPROVAL BY COURT**

**APPROVAL BY COURT**

APPROVED FOR FILING and SO ORDERED this \_\_\_\_ day of \_\_\_\_, 2025.

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The Hon. Timothy B. Tomasi

APPROVED:

Dated: February 5, 2025

STATE OF VERMONT

CHARITY R. CLARK  
ATTORNEY GENERAL

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APPROVED:

Dated: February 5, 2025

HEARING AT HOME LLC,  
FKA NANO HEARING TECH OPCO, LLC

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Dated: February 5, 2025

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