



CHRIS CHRISTIE  
Governor

KIM GUADAGNO  
Lt. Governor

# New Jersey Office of the Attorney General

Division of Consumer Affairs

State Board of Dentistry

124 Halsey Street, 6<sup>th</sup> Floor, Newark, NJ 07102

VIA CERTIFIED (RRR) AND REGULAR MAIL



JOHN J. HOFFMAN  
Acting Attorney General

STEVE C. LEE  
Acting Director

April 24, 2014

Davis C. Thomas, D.D.S.  
C/o Herb Kruttschnitt, Esq.  
200 Schulz Drive, Suite 405  
Red Bank, NJ 07701

RECEIVED AND FILED  
WITH THE  
N.J. BOARD OF DENTISTRY  
ON 5-13-14 DA

Mailing Address:  
P.O. Box 45005  
Newark, NJ 07101  
(973) 504-6405

Re: Settlement Letter in Lieu of Formal Disciplinary Proceedings in Complaints:  
87893 - Patient C.C.

Dear Dr. Thomas:

This letter is to advise you that the New Jersey State Board of Dentistry completed its review of information concerning the above captioned complainants. Specifically, the information reviewed included:

1. The patient's complaint;
2. A copy of your response, including patient treatment and financial records, and other office records;
3. Other available information about the patient's condition.

Based upon the review of these matters, the Board has determined that you have engaged in the following actions which, if proven, would constitute violations of the Board's statutes and regulations:

1. **Diagnosis** - The Board is of the opinion that the patient record failed to contain adequate diagnostic materials necessary for proper treatment planning; specifically, a full mouth series of x-rays. Additionally, the Board is of the further opinion that the patient record contained no periodontal charting, incomplete charting of dental abnormalities, and no charting of existing restorations.
2. **Treatment Planning** - The Board contends that the treatment plan failed to note the patient's periodontal condition before proceeding with periodontal debridements and/or quadrant deep scalings; the abutting of long-span fixed bridge on the minimum of abutments with periodontal limitations; and the failure to address the replacement of missing molars on the lower left in order to balance the patient's occlusion.

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**3. Poor Execution of Treatment** - The Board contends that the patient's periodontal condition should have been addressed before starting extensive restorative work; the frameworks casted and tried in as one piece, instead of individual copings with transfers to more adequately impress pontic areas; bridges were set in malocclusion (without a bisque bake try-in), resulting in rough surface adjustments and significant spaces under pontics; there were open margins on abutment crowns on #2, 7, 8, 9, 11, 12 and 14; and, significant periodontal breakdown around abutment crowns on #11 and #12.

The Board contends that the failure to properly diagnose, plan and execute the treatment of patient C.C., if proven, may constitute multiple acts of negligence sufficient to initiate the filing of formal disciplinary proceedings. However, the Board has determined that it will first offer you an opportunity to settle this matter, and avoid the initiation of formal disciplinary proceedings, should you agree to the following:

1. Provide the patient with full restitution for the case, returning the \$4,950.00 paid to you by the patient and insurance carrier, and forgiving the outstanding balance of \$5,591.00 due from the patient for all restorative work performed on the maxillary arch. Therefore, the total amount of restitution will be \$10,541.00.
2. Pay a civil penalty in the amount of \$2,500 in lieu of proceeding to formal administrative hearing on the contentions.
3. Complete a total of twenty one (21) hours of remedial continuing education in the following subject areas: seven (7) hours in diagnosis and treatment planning, seven (7) hours in periodontics, and seven (7) hours in crown and bridge.

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. The restitution should be paid by a check or money order made payable to the patient and submitted to the Board office. The penalty should be paid by a check or money order payable to the "State of New Jersey." Continuing education course work is to be completed in addition to the credits you must complete for the renewal of your dental license. You should be aware that upon receipt of your signed acknowledgment, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Attorney General's office for the initiation of an appropriate enforcement action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer the matter to the Office of Administrative Law. You are advised, however, that in the event formal charges are filed, the Board may assess civil penalties in an

Settlement Letter

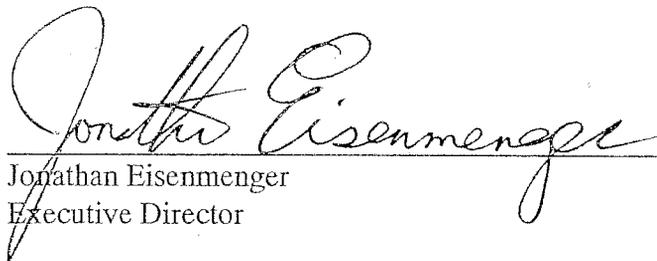
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amount greater than those offered in settlement here, in addition to other sanctions, should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order requiring you to reimburse certain monies and/or requiring you to pay the additional costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer, I suggest that you contact Deputy Attorney General Swang Oo, who may be reached at (973) 648-2500.

If you elect to settle this matter, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be withdrawn, and the matter will be referred to the Attorney General's Office for the initiation of appropriate enforcement proceedings.

Sincerely,  
NEW JERSEY STATE BOARD OF DENTISTRY



Jonathan Eisenmenger  
Executive Director

cc: Swang Oo, Deputy Attorney General

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**ACKNOWLEDGMENT:** I, Davis C. Thomas, D.D.S., have read and reviewed the settlement proposal set forth in this settlement letter. I am aware that I have the right to dispute the charges, and to request a hearing. Rather than take that course of action, it is my desire to resolve this matter amicably, and without formal proceedings. I am aware that by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board is a matter of public record, and that this letter is a public document. Without admitting the validity of the contentions, I agree to comply with the directives noted. I will:

1. Provide the patient with restitution for the case, returning \$4,950.00 paid to you by the patient and insurance carrier, and forgiving the outstanding balance of \$5,591.00 for all restorative work performed on the maxillary arch. I will submit a copy of the current patient ledger that verifies that the patient does not have an outstanding balance with the dental office.
2. Pay a civil penalty in the amount of \$2,500 in lieu of proceeding to formal administrative hearing on the allegations.
3. Complete a total of twenty one (21) hours of remedial continuing education in the following subject areas: seven (7) hours in diagnosis and treatment planning, seven (7) hours in periodontics, and seven (7) hours in crown and bridge. Prior to taking any continuing education in these subjects, the proposed courses will be submitted to the Board for approval.

5/2/2014

Date



Davis C. Thomas, D.D.S.