



April 13, 2023

## NOTICE OF CITATION

Cheryl Cavanna  
SC Eye-Lab  
922 Avenida Salvador  
San Clemente, CA 92672

Re: Case No. 420 2016 000741

Dear Ms. Cavanna:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1399.278. Operating a spectacle and contact dispensary without a current and valid Registered Dispensing Optician registration with the California State Board of Optometry and advertising the illegal filling of prescription lenses constitutes violations of Business and Professions Code (B&P) sections 651(a), 2555.5(g), 2555.5(p), 2556.5, 2564.91(a), and 17500.

Section 1399.276 of the California Code (Code) of Regulations authorizes the Board's Executive Officer of the California State Board of Optometry (Board) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code (BPC) section 125.9 against an optician who has committed any acts or omissions which are in violation of the provisions of law. Where appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation. The sanctions authorized under this section shall be separate from and in addition to any civil or criminal remedies.

Enclosed is a copy of a Citation issued by the Executive Officer of the Board, which is hereby served upon you. All orders of abatement and assessments of administrative fines are to be complied with in accordance with the time specified in the Citation.

You have a right, by law, to request either an informal conference before the Executive Officer or a formal administrative hearing before an administrative law judge or both, to contest the findings of a violation. A request for an informal conference must be made within 10 days of service of this Citation. A request for a formal administrative hearing must be made within 30 days of the issuance of the Citation. You may be, but do not need to be, represented by legal counsel. If you wish to be represented by legal counsel, you are advised to contact your attorney immediately so that you may be properly

represented in all proceedings. The Citation will be deemed a final order 30 days after the date of issuance unless appealed.

If you request a formal administrative hearing, your request will be referred to the Office of the Attorney General and a Deputy Attorney General will be assigned to the case. You will then be scheduled for a hearing, which may take up to six months to one year depending on the hearing calendar. The hearing will be held pursuant to Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The Board may, by majority vote, adopt, reduce or revise the administrative law judge's proposed decision.

If you request an informal conference, a conference will be held by phone to review the acts charged in the Citation and your efforts toward full compliance. The informal conference is a more expeditious process and will be scheduled within 30 days from receipt of your request. At the conclusion of the conference, the Executive Officer may affirm, modify or dismiss the Citation, including any fine levied or order of abatement. A copy of the Executive Officer's findings and decision will be sent to you. Unless an administrative hearing was requested in a timely manner, an informal conference decision, which affirms the Citation, will be final.

Enclosed are the forms for your use to request an informal conference and/or a formal administrative hearing. If you do not return the enclosed form(s) within the times specified above, you waive the right to contest this Citation. If you do not appeal the Citation within the specified time, the Citation shall be deemed a final order of the Board and shall not be subject to further administrative review. If you have any questions or need further clarification, please submit all inquiries in writing.

Sincerely,



Gregory Pruden  
Executive Officer

Enclosures



Name: Cheryl Cavanna  
Date Issued: April 13, 2023  
Complaint #: 420 2016 000741

## CITATION

### Findings of Fact

#### I

Sections 1399.275 and 1399.277 of Title 16, California Code of Regulations authorizes the executive officer of the California State Board of Optometry (Board) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code (B&P) section 125.9 for opticians who have committed any acts or omissions which are in violation of the Opticianry Practice Act or any Regulation adopted thereto.

#### II

B&P Section 2555.5 defines the action the Board may take against or impose upon an unregistered opticianry who is guilty of unprofessional conduct.

#### III

The Board's records reflect that Cheryl Cavanna has not been issued nor holds a valid Registered Dispensing Optician certificate to practice in California.

#### IV

During an investigation conducted by the the Division of Investigation and the Board, it has been determined that, on or about February 1, 2016 to on or about February 2, 2023, subject engaged in the business of filling prescriptions of physician and surgeons or optometrists without having a registration, as required by California Law. Further, subject advertised for services she was not lawfully registered to provide.

On or about December 5, 2022, an undercover operation was performed and the undercover officer was able to provide a valid prescription for bifocals lenses. The lenses were measured, cut, and put into the frames in the lab onsite by the subject. The undercover officer picked up the bifocal glasses on December 6, 2022.

Further, during the investigation, it was discovered that subject advertised services she was not registered to provide. Specifically, she advertised "single-vision", "progressive," and "bifocal" lenses on the store front specifying the cost of each lens type. On subject's social media outlet, Facebook, she advertised "home of the single vision polycarbonate and fashion frame for \$99 dollars where the work is done here onsite with a State of the Art Lab." Subject's Yelp page in the "About the Business" section, it specifically states,

“SC EYE-LAB is proud to be your most affordable optical prescription eye-wear in south orange county! We offer single vision polycarbonate lenses and fashion frames for 99.00 dollars, Progressive and Bi-Focals too. We do have a on site lab and do all tinting as well. Small repairs and adjustments are always free;” and “After years of managing a optometry business opening Sc EYE-LAB is a dream come true.Reaching out and making prescription eye-wear affordable in south orange county has been my true goal.”

## **Determination of Issues**

### **Cause of Action**

I

Violations exist pursuant to Business and Professions Code Sections:

- 651(a) It is unlawful ... to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the ... business ... . A “public communication” as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.
- 2555.5(g) The use of advertising relating to opticianry that violates Section 651 or 17500.
- 2555.5(p) The practice of functions defined in this chapter without a valid, unrevoked, unexpired registration.
- 2556.5 Any person who holds himself out as a “dispensing optician” or “registered dispensing optician” or who uses any other term or letters indicating or implying that he is registered and holds a certificate under the terms of this law without having at the time of so doing a valid, unrevoked certificate, as provided in this chapter, is guilty of a misdemeanor.
- 2564.91(a) Individuals, corporations, and firms shall make application for registration and shall not engage in that business defined in Section 2564.90 before being issued a certificate of registration.
- 17500 It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to ... or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that ... those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or

disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

A cause for action thereby exists.

### **Penalty**

In compliance with Business and Professions Code section 125.9 and California Code of Regulations section 1399.276, it is determined that:

I

Unless submitting a timely request for a conference (10 days) or hearing (30 days), within the specified timeframe from the issuance of this citation, you are required to pay an administrative fine in the amount of **\$1,000.00** for violation of Business and Professions Code sections 651(a) and 17500; **\$1,000.00** for violation of Business and Professions Code section 2555.5(g); **\$1,000.00** for violation of Business and Professions Code section 2555.5(p), **\$1,000.00** for violation of Business and Professions Code section 2556.5, and **\$1,000.00** for violation of Business and Professions Code section 2564.91(a). The total payment of **\$5,000.00** is due by **May 13, 2023**.

### **Order of Abatement**

The Board hereby orders you to comply with all statutes and regulations governing the practice of Opticianry.

You are ordered to cease and desist from violating Business and Professions Code sections 2555.5(p), 2556.5, and 2564.91(a). You must apply for registration as a Registered Dispensing Ophthalmic Business (formerly known as a Registered Dispensing Optician) before you open a new opticianry with the intent to fill prescriptions. Until such time that a valid registration is obtained, you must cease and desist from filling any prescription orders from any client.

Further, you are ordered to cease and desist from violating Business and Professions Code sections 651(a), 2555.5(g), and 17500. Please remove all references to prescription lenses of any type from all business circular advertisements, building advertisements, and social media sites, including Facebook and Yelp. Proof of compliance must be submitted to the Board's Enforcement Unit at [CSBOenforcement@dca.ca.gov](mailto:CSBOenforcement@dca.ca.gov) by **May 13, 2023**.