



October 30, 2023

## NOTICE OF CITATION

Re: Case No. 420 2024 000001

Dear Ms. Fraijo:

You are hereby served with a Citation pursuant to Title 16, California Code of Regulations (CCR) Section 1399.278. Operating a spectacle and contact lens dispensary without a current and valid Registered Dispensing Optician registration with the California State Board of Optometry constitutes violations of Business and Professions Code (B&P) Section 2543(a), 2555.5(a), 2555.5(p), 2555.5(q), 2556.5, 2559.1(a)(1), 2564.90, and 2564.91.

Section 1399.275 of the California Code (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 (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 within thirty days of the citation being issued, a decision to affirm the citation following the informal conference 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,

- Signature on File -

Gregory Pruden  
Executive Officer

Enclosures



Name: EyeBar BH LLC  
Date Issued: October 30, 2023  
Complaint #: 420 2024 000001

## CITATION

### Findings of Fact

I

Sections 1399.275 and 1399.278 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 Elisheva Fraijo has not been issued nor holds a valid Registered Spectacle Lens Dispenser certificate to practice in California.

IV

The Board's records reflect that EyeBar, LLC has not been issued nor holds a valid Registered Dispensing Ophthalmic Business certificate to practice in California.

V

On October 7, 2021 Elisheva Fraijo filed EyeBar BH LLC, File #202128410051, with the Secretary of State as the only member of the LLC.

VI

During an investigation conducted by the Board, on May 26, 2023 Elisheva Fraijo confirmed being the sole owner of EyeBar BH LLC, denied holding any licenses through the State of California, and admitted to providing prescription glasses and prescription sunglasses to her clients.

# Determination of Issues

## Cause of Action

I

Violations exist pursuant to Business and Professions Code Sections:

- 2543(a) "... the right to dispense, sell, or furnish prescription ophthalmic devices at retail or to the person named in a prescription is limited exclusively to licensed physicians and surgeons, licensed optometrists, and registered dispensing opticians as provided in this division ... ."
- 2555.5(a) "Violating, attempting to violate, conspiring to violate, or directly or indirectly assisting in or abetting the violation of any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter."
- 2555.5(p) "The practice of functions defined in this chapter without a valid, unrevoked, unexpired registration."
- 2555.5(q) "The employing, directly or indirectly, of any suspended or unregistered individual to perform any work for which an optician registration is required."
- 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."
- 2559.1(a) "An individual shall not fit and adjust spectacle lenses unless that individual complies with the registration requirements of Section 2564.90, and unless either of the following applies:
  - (1) The individual is a duly registered spectacle lens dispenser as provided in Section 2559.2."
- 2564.90 "Individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Medical Board of California or the Osteopathic Medical Board of California, or optometrists licensed by the California State Board of Optometry for prescription lenses and kindred products shall be known as dispensing ophthalmic businesses and shall not engage in that business unless registered with the California State Board of Optometry."
- 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.
  - (b) Application for that registration shall be on forms prescribed by the board, shall bear the signature of the individual, or general partners if a partnership, or the president or secretary if a corporation or firm, and shall contain the name under which they propose to do business and the business address.
  - (c) Corporations and firms shall be organized and exist pursuant to the General

Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code) and shall not be limited liability companies within the meaning of Title 2.6 of the Corporations Code.

(d) If applicable, the application shall include a list of officers in the corporation, firm, or partnership and a copy of the articles of incorporation submitted to the Secretary of State.

(e) Separate applications shall be made for each place of business and each application shall be accompanied by the application fee prescribed by Section 2565.”

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 2543(a) and **\$2,000.00** each for violation of of Business and Professions Code section 2556.5 and 2559.1. The total payment of **\$5,000.00** is due by **November 29, 2023.**

### **Order of Abatement**

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

Further, you are ordered to cease and desist from violating Business and Professions Code sections 2564.91(a) and 2556.5. You must apply for registration as a Registered Dispensing Optician. Until such time that a valid registration is obtained, you must cease and desist from operating the opticianry in EyeBar Beverly Hills. Proof of compliance must be submitted to the Enforcement Unit by November 30, 2023.

Additionally, pursuant to Business and Professions Code section 2552.2(a) “A citation issued for an order of abatement in accordance with Sections 1399.275 and 1399.277 of Title 16 of the California Code of Regulations shall be posted on the front of the place of business of the dispensing optician. The citation shall remain posted until the violation has been corrected. The dispensing optician must also prominently post and make available its notice on any internet website it maintains that provides information about its services.”

A copy of the Notice of Citation and the Findings of Fact must be posted in a conspicuous location in EyeBar and on the EyeBar Instagram profile. Provide the Board with a picture of the posted notice by November 30, 2023.