

Alternatively, Respondent was given the options of either requesting a hearing before the Board or submitting a written explanation and waiving its right to a hearing.

Waiving his right to a hearing, Respondent elected to submit a written explanation, dated March 21, 2002 in which Respondent maintained that the particular advertisement provided that the price of a regular eye examination was \$69.00 and that the professional fee including all trial lenses and the fitting fee with trial lenses regardless of whether or not the patient purchased the contact lenses was \$119. The respondent also explained the intent of the advertisement in using the phrase "specialize in children's eye wear and eye care" as providing unique children's eye wear services such as providing "reconstructive anatomical requirements." His office also provides custom fitting and dispensing for patients of several pediatric ophthalmologists in the area. Respondent reiterated that his office does not hold themselves out as a children's vision specialists nor does he perform any developmental vision work ups or vision training. Additionally, the respondent confirmed that the word "specializing" will be removed from future advertising.

At its meeting on April 17, 2002, the Board considered Respondent's explanation and the advertisement. With respect to the charge that the respondent failed to provide a separate fee for an eye examination, the Board reviewed the advertisement and finds that the Respondent's explanation is correct and the separate examination fee is listed in the advertisement. Therefore, the Board withdraws the finding of a violation of N.J.A.C. 13:38-1.2(c) 6 and the corresponding penalty of \$250.

Accordingly, the Board finds that Respondent failed to conform with the regulatory obligation as set forth in the U.P.L. concerning the charge of a violation of N.J.A.C. 13:38-1.2(f) 2 by using the phrase "specialize in children's eye wear and eye care" and thus it concludes that the violation occurred.

Based on the foregoing:

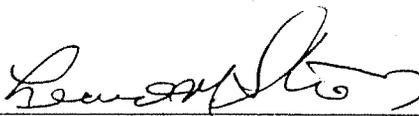
IT IS on this day of May 15 , 2002,

ORDERED that:

1. Respondent shall pay to the Board of a civil penalty in the total amount of \$250 for the violation as set forth in the U.P.L. and found as detailed above. Said payment shall be made by certified check or money order payable to the State Board of and shall be delivered within ten (10) days of service of this order to the Susan Gartland, Executive Director at the Board of Optometrists , P. O. Box 45012, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.
2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful.

NEW JERSEY STATE
BOARD OF OPTOMETRISTS

BY: _____



Leonard Steiner, O.D.
President