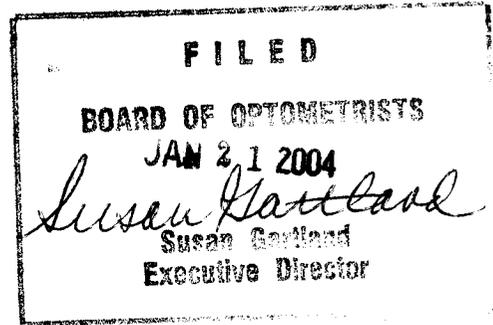


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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF OPTOMETRISTS

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
	:	
KEVIN HRABINSKI, OD.	:	FINAL DECISION AND ORDER
License No. 27OA00544800	:	AFTER UPL EXPLANATION
	:	
TO PRACTICE OPTOMETRY	:	
IN THE STATE OF NEW JERSEY	:	
	:	

This matter was opened to the New Jersey Board of Optometrists (hereinafter the "Board") on the receipt and review of an advertisement for Saft Opticians in the July 30, 31 and August 1, 2003 issue of Summer Sensation which indicated that Dr. Kevin Hrabinsky, Independent Doctor of Optometry, (the Respondent) provided eye examinations. The review revealed probable violations of N.J.A.C. 13:38-1.2(l) which requires an optometrist to include his name and license and certification numbers in all advertisements.

On October 7, 2003, a Uniform Penalty Letter (hereinafter "U.P.L.") was sent to Respondent setting forth the initial findings of the Board and offering Respondent the opportunity to settle this matter by acknowledging the violations and paying an aggregate civil penalty in the amount of \$250.00 for failure to include his license and certification number in the advertisement in violation of N.J.A.C. 13:38-1.2(l). 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 in which Respondent maintained that the advertisement was published without the consent or approval of himself or the owner of Saft Opticians, Thomas Bright. Respondent asked the Board to consider that his control was limited to what he was aware was to be printed. Both he and Mr. Bright had put the newspaper on notice regarding the Board's regulations requiring name and license number. A letter was submitted from Carol Hladun, Advertising Director, Somerset Division N.J.N. Publishing that confirmed that due to a communication mix-up between Mr. Bright and the Advertising Account Executive the license and certification number of the respondent was inadvertently omitted from the advertisement. Mr. Bright also submitted correspondence informing the Board that the Respondent was not aware of the advertisement in question as he is responsible for all advertising. The advertisement in question was faxed to Mr. Bright as a suggestion for a possible advertisement. Mr. Bright's letter also confirmed that he never signed any approval for the advertisement and was surprised to learn that it was published. He further confirmed that "his normal protocol on an advertisement containing Respondent's name is to present the ad to Dr. Hrabinski for review to assure that all regulations governing the

practice of optometry are met.” In this case, Mr. Bright provided that neither he nor respondent approved the advertisement.

At its meeting on November 9, 2003, the Board considered Respondent's explanation and the complaint. With respect to the charges the Board acknowledge the circumstances in this case but noted that the advertising regulations provide that “every registered optometrist whose name appears in or is mentioned in any advertisement of any kind or character shall be presumed to have caused, permitted, and approved the advertising and shall be personally responsible for its material content and character,” N.J.A.C. 13:38-1.1. Therefore, the Board concluded that the violation of N.J.A.C. 13:38-1.2 (l) occurred and the U.P.L. is affirmed.

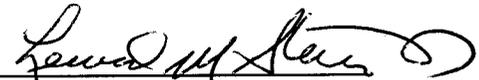
Based on the foregoing:

It is on this *21st* day of *January*, 2004,

ORDERED that:

1. Respondent shall pay to the Board of Optometrists a civil penalty in the total amount of \$250.00 for the violation 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 Optometrists and shall be delivered within ten (10) days of the service of this order to Susan Gartland, Executive Director, of 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 for engaging in the conduct found herein to be unlawful.

NEW JERSEY STATE
BOARD OF OPTOMETRISTS

BY: 
Leonard Steiner, O.D.
President