



CHRIS CHRISTIE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians
124 Halsey Street, 6th Floor, Newark, NJ 07102



PAULA T. DOW
Attorney General

KIM GUADAGNO
Lt. Governor

STATE BOARD OF EXAMINERS OF OPHTHALMIC DISPENSERS AND OPHTHALMIC TECHNICIANS

THOMAS R. CALCAGNI
Director

Mailing Address:
P.O. Box 45011
Newark, NJ 07101
(973) 504-6435

PUBLIC SESSION MINUTES

August 10, 2011

The August meeting of the Board was convened in accordance with its notice to the Lt. Governor, the Bergen Record, the Record of Hackensack, the Trenton Times, the Courier Post and the Str Ledger and was conducted in accordance with the provisions of the Open Public Meetings Act.

President Michael Higgins convened the meeting at 9:00 a.m. A roll call was taken and the following attendance was recorded for these minutes.

PRESENT: Peter Goetz, Gary Iavarone, Jay McMullin, Norman Schlieffer and Michael Higgins

ABSENT/EXCUSED: None

PUBLIC ATTENDEES: None

Also in attendance: Dorcas K. O'Neal, Executive Director, Susan Berger, Deputy Attorney General, and Monica Carrington, staff.

I. PUBLIC HEARINGS

- a. **I/M/O Samuel J. Rosner a/k/a Jeff Rosner** - Respondent was given a copy of the Consent Order filed on this date, August 10, 2011 which stipulated, in part that he must cease and desist engaging in, or holding himself out as engaging in, the practice of ophthalmic dispensing in the State of New Jersey unless and until he is licensed by the Board. This hearing is being held in connection with the assessment of civil penalties for repeated practice as an ophthalmic dispenser without a license pursuant to N.J.S.A. 45:1-18.2. Respondent made no submission/s in connection with this public hearing.

Respondent appeared *pro se*. Mr. Rosner was advised that if at any time during the proceeding he wished to obtain counsel, he could so state and the matter would be adjourned without prejudice. He agreed to proceed and was sworn.

Mr. Rosner testified that he has never appeared before the Board and has never been disciplined by the Board. He stated that from 1970-1975 he owned Cohen's Fashion Optical. He testified that in 1993, his Dad became ill and subsequently passed away. He did not renew his license (that year). He stated that he worked as an owner/manager. From 1995-2004, he testified that he had licensed opticians and that he dispensed.

He stated that he sold the store in 2004 and was becoming a frame company. Jeff Cole (optician) was there in 2004 for about a year. Mr. Rosner testified that he came back as part-time in 2004. He stated that people were looking for him to do sales and two years ago he started dispensing. From 2005-2011, there were no licensed opticians working at the store.

The store is now owned by Boris Mager and all of them do dispensing. Harry Schultz is working there now 2 to 3 days a week; Drs. Sidney Kramer and Russell Katman, Optometrists work there.

Mr. Rosner stated that he makes no excuse for what he has done. In December 2010, he fell on black ice and has \$50-60,000.00 in doctor bills. This is the reason he is asking for consideration. Presently, he is managing Cohen's Optical but will be leaving in 2 or 3 weeks to start doing sales at a frame company the first or second week in September.

He testified that Eileen Maggs works in sales and occasionally dispenses, shows frames, recommends frames and lenses. He stated that he did not initial records and never initials records.

Boris Mager and Mr. Zhurov are owners. He stated that he collects fees for the optometrist/s at no compensation. Others in the store collect optometrist fees as well. Corporate office sets prices. There are separate ledgers for the Store and optometrist. He stated that Boris Mager is not a licensed optician. As owner, he collects all fees. Optometrist pay a stipend for rent. They also take PD's.

Mr. Rosner stated that since 1995 he has attended seminars but took no continuing education. Finally, he requested leniency and a payment plan.

DETERMINATION

After hearing testimony and reviewing all relevant documents, on a motion by Gary Iavarone seconded by Norman Schleiffer, the Board unanimously cited Respondent for violation of N.J.S.A. 52:17B-41.18, unlicensed practice, violating N.J.S.A. 45:1-21 (n) aiding and abetting unlicensed practice and

repeated practice of ophthalmic dispensing; pursuant to N.J.S.A. 45:1-22 and 45:1-25, the Board assessed a \$20,000.00 civil penalty with \$10,000.00 stayed; \$5,000.00 payable one month from August 10, 2011 and \$5,000.00 payable over five payments of equal amounts. A Certificate of Debt will be filed immediately.

b. I/M/O Boris Mager, owner/manager d/b/a Cohen's Fashion Optical. Monmouth Mall, Eatontown, NJ

Respondent was given a copy of the Consent Order filed on this date, August 10, 2011 which stipulated, in part that he must cease and desist engaging in, or holding himself out as engaging in, the practice of ophthalmic dispensing in the State of New Jersey in violation of N.J.S.A. 52:17B-41.18, unless and until he is licensed by the Board. This hearing is being held in connection with the assessment of civil penalties for repeated practice as an ophthalmic dispenser without a license pursuant to N.J.S.A. 45:1-18.2. Respondent made no submission/s in connection with this public hearing.

Respondent appeared *pro se*. Mr. Mager was advised that if at any time during the proceeding he wished to obtain counsel, he could so state and the matter would be adjourned without prejudice. He agreed to proceed and was sworn.

Respondent testified that he has owned Cohen's Fashion Optical since 2004 and that he and other unlicensed persons did dispensing. He testified that he trained in the Soviet Union (*as a dispenser*). Alex Zhurov was a partner and he wanted to sell the business.

Respondent testified that he came to the United States in 1992 and worked in computer programming. He trained in the Ukraine. He started the business in 2004.

He stated that from 2005-2010 he sold glasses. During the same time, there was no licensed optician. He dispensed once a day. Respondent testified that he initialed patient records "JR"; the salesperson signed "JR" or "SJR". Respondent

stated that he does not remember talking with Rosner about State requirements. He stated that he knew he needed a licensed optician in the store.

Respondent testified that his name is with the insurance company and claims are paid to Cohen's (*as*) General. Dr. Katman performs exams. While doctors are independent, the store bills for eye exams. The store is a "full service" store and there is no "out of pocket" costs to patients.

Respondent writes checks to doctors; MB Services is the name on the Account (check). Rosner is a "1099" employee.

Respondent reviewed the schedule for Eileen Maggs, Jeff Rosner, Schultz, the doctors and himself. He stated that the advertisement will be corrected for August. He stated that work orders are sent to a finishing lab and Schultz does the final inspection of eyeglasses.

He testified that he has an advertising business in Brooklyn (NY) and lives in Staten Island, NY. Cohen's Fashion Optical signed the lease agreement and he sub-leases.

DETERMINATION

After hearing testimony and reviewing all relevant documents, on a motion by Gary Iavarone seconded by Norman Schleiffer, the Board unanimously approved the issuance of a Final Order and Decision directing that Respondent submit a business plan within fifteen (15) days of signing the Order; the Board unanimously cited Respondent for violation of N.J.S.A. 52:17B-41.18, unlicensed practice and N.J.S.A. repeated practice of ophthalmic dispensing and assessed a \$20,000.00 civil penalty with \$10,000.00 stayed; \$5,000.00 payable one month from August 10, 2011 and \$5,000.00 payable over five payments of equal amounts. A Certificate of Debt will be filed immediately.

There being is no other business to come before the Board in Public Session, on a motion by Gary Iavarone seconded by Jay McMullin, the Public Session was adjourned. The next scheduled meeting is August 10, 2011. There being no other business to come before the Board, on a motion by Jay McMullin and seconded by Gary Iavarone, the meeting was adjourned at 1:00 p.m.

Respectfully submitted,

Dorcas K. O'Neal
Executive Director

