

1 **BEFORE THE**
2 **ARIZONA STATE BOARD OF DISPENSING OPTICIANS**

3 In the Matter of

4 **FRAMED EWE 2**
5 **5538 N. 7th STREET**
6 **PHOENIX, AZ 85014,**

7 Respondent.

Case No. 18-004

**CONSENT AGREEMENT/
ORDER**

8 **RECITALS**

9
10 In the interest of a prompt and judicious settlement of this case, consistent with the
11 public interest, statutory requirements, and responsibilities of the Arizona State Board of
12 Dispensing Opticians ("Board"), and under A.R.S. §§ 32-1671, et seq., and 41-
13 1092.07(F)(5), Respondent Framed Ewe 2 located at 5538 N. 7th Street, Phoenix, AZ,
14 85014, former holder of Optical Establishment License number LOE-001377 (expired),
15 issued by the Board ("Respondent"), and the Board enter into the following Recitals,
16 Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as the final
17 disposition of this matter.

18 1. Respondent has read and understands this Consent Agreement; has been provided
19 the opportunity to discuss this Consent Agreement with an attorney; and knowingly,
20 intelligently, and voluntarily enters into this Consent Agreement.

21 2. Respondent understands that it has a right to a public administrative hearing
22 concerning this matter, at which it could present evidence and cross-examine witnesses.
23 By entering into this Consent Agreement, Respondent knowingly and voluntarily
24 relinquishes all rights to such an administrative hearing, as well as all rights of rehearing,
25 review, reconsideration, appeal, judicial review or any other administrative and/or
26

1 judicial action, concerning the matters set forth herein. Respondent affirmatively agrees
2 that this Consent Agreement shall be irrevocable.

3 3. Respondent understands that this Consent Agreement or any part of the Agreement
4 may be considered in any future disciplinary action by the Board against Respondent.

5 4. Respondent understands that this Consent Agreement deals with Board Case No.
6 18-003. The investigation into this case against Respondent shall be concluded upon the
7 Board's adoption of this Consent Agreement.

8 5. All admissions made by Respondent in this Consent Agreement are made solely
9 for the final disposition of this matter, and any related administrative proceedings or civil
10 litigation involving the Board and Respondent. Any admissions made by Respondent in
11 this Consent Agreement are not intended for any other use, such as in the context of
12 another regulatory agency's proceedings, or civil or criminal proceedings, whether in the
13 State of Arizona or in any other state or federal court.

14 6. Respondent acknowledges and agrees that, upon signing this Consent Agreement
15 and returning this document to the Board's Executive Director, Respondent may not
16 revoke acceptance of the Consent Agreement or make any modifications to the document,
17 regardless of whether the Consent Agreement has been issued by the Board's Chairman.
18 Any modification to this original document is ineffective and void unless mutually
19 approved by the parties in writing.

20 7. Respondent understands that the foregoing Consent Agreement shall not become
21 effective unless and until adopted by the Board and signed by its Chairman.

22 8. Respondent understands and agrees that if the Board does not adopt this Consent
23 Agreement, it will not assert as a defense that the Board's consideration of this Consent
24 Agreement constitutes bias, prejudice, prejudgment or other similar defenses.
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1 9. Respondent understands that this Consent Agreement is a public record that may
2 be publicly disseminated by the Board.

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4 **FINDINGS OF FACT**

5 10. The Board has jurisdiction over the practice of Dispensing Opticians and
6 Dispensing Optician Establishments pursuant to A.R.S. §§ 32-1671, *et seq.*

7 11. Between June 1, 2017 and June 30, 2018, Respondent held Board-issued
8 Certificate LOE-001377.

9 12. On June 30, 2018, Respondent's certificate expired for failure to timely renew.

10 13. Board staff contacted Respondent on multiple dates after June 30, 2018 and
11 discovered Respondent was continuing to provide services for which certification is
12 required.

13 14. On or about August 1, 2018, the Board provided Respondent with a violation letter
14 for potential findings of practicing optical dispensing or operation of an optical
15 establishment without a valid and subsisting certificate.

16 15. On or about September 5, 2018, the Board voted to offer Respondent a consent
17 agreement in resolution of the matter prior to formal complaint and notice of hearing.

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19 **CONCLUSIONS OF LAW**

20 16. After notice and opportunity for hearing, "the board may impose a civil penalty of
21 not more than one thousand dollars against any... entity acting without a license issued
22 by the board..." A.R.S. § 32-1699(B).

23 17. The conduct and circumstances above constitute cause for civil penalties pursuant
24 to A.R.S. § 32-1699(B)


25
26 **ORDER**

1 Based on the above Findings of Fact and Conclusions of Law, **IT IS ORDERED**
2 that:


3 1. **PENALTY:** Respondent shall pay a civil penalty in the amount of five hundred
4 dollars (\$500.00). This entire amount shall be paid within thirty (30) days of the
5 effective date of this consent agreement, and shall be paid in the form of a cashier's
6 check or money order made payable to the Board.
7

8 DATED AND EFFECTIVE this 24th day of SEPTEMBER 2018.
9

10 ARIZONA BOARD OF DISPENSING OPTICIANS
11

12 By: 
13 Dale Nyblade
14 Chairman
15 Licensed Optician
16

17 DATED this 17 day of September, 2018.
18

19 By: **CHRISTY KIMBALL** 
20 Authorized representative
21 Framed Ewe 2
22 Located at:
23 5538 N. 7th Street
24 Phoenix, AZ 85014
25
26

1 **Original** of the foregoing filed
2 this 27 day of September 2018, with:

3 The Arizona State Board of Dispensing Opticians
4 1740 W. Adams Street
5 Suite 3001
6 Phoenix, AZ 85007

7 **Copy** of the foregoing mailed
8 this 24 day of September 2018 to:

9 Framed Ewe 2
10 5538 N. 7th Street
11 Phoenix, AZ 85014

12 Scott Donald
13 Assistant Attorney General
14 License and Enforcement Section
15 2005 N. Central Ave.
16 Phoenix, Arizona 85004

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By: M. Daniel