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8 Attorneys for the Arizona State Board of Dispensing Opticians

9 **BEFORE THE**
10 **ARIZONA STATE BOARD OF DISPENSING OPTICIANS**

11 In the Matter of

12 **ANGELA SAUSER,**

13 **Dispensing Optician License**
14 **No. 3008i,**

15 **Respondent.**

Case No. 18-001 _____

**CONSENT AGREEMENT/
ORDER**

16
17 **RECITALS**

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19 In the interest of a prompt and judicious settlement of this case, consistent
20 with the public interest, statutory requirements, and responsibilities of the Arizona
21 State Board of Dispensing Opticians ("Board"), and under A.R.S. §§ 32-1671, et
22 seq., and 41-1092.07(F)(5), Respondent Angela Sauser, holder of license number
23 3008i, issued by the Board ("Respondent"), and the Board enter into the following
24 Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement")
25 as the final disposition of this matter.
26

1 1. Respondent has read and understands this Consent Agreement, has been
2 provided the opportunity to discuss this Consent Agreement with an attorney, and
3 voluntarily enters into this Consent Agreement for the purpose of avoiding the
4 expense and uncertainty of an administrative hearing.
5

6 2. Respondent understands that she has a right to a public administrative
7 hearing concerning this matter, at which she could present evidence and cross-
8 examine witnesses. By entering into this Consent Agreement, Respondent
9 knowingly and voluntarily relinquishes all rights to such an administrative hearing,
10 as well as all rights of rehearing, review, reconsideration, appeal, judicial review or
11 any other administrative and/or judicial action, concerning the matters set forth
12 herein. Respondent affirmatively agrees that this Consent Agreement shall be
13 irrevocable.
14

15 3. Respondent understands that this Consent Agreement or any part of the
16 Agreement may be considered in any future disciplinary action by the Board
17 against Respondent.
18

19 4. Respondent understands that this Consent Agreement deals with Board Case
20 No. 18-001. The investigation into this case against Respondent shall be
21 concluded upon the Board's adoption of this Consent Agreement.

22 5. All admissions made by Respondent in this Consent Agreement are made
23 solely for the final disposition of this matter, and any related administrative
24 proceedings or civil litigation involving the Board and Respondent. Any
25 admissions made by Respondent in this Consent Agreement are not intended for
26

1 any other use, such as in the context of another regulatory agency's proceedings, or
2 civil or criminal proceedings, whether in the State of Arizona or in any other state
3 or federal court.

4
5 6. Respondent acknowledges and agrees that, upon signing this Consent
6 Agreement and returning this document to the Board's Executive Director,
7 Respondent may not revoke her acceptance of the Consent Agreement or make any
8 modifications to the document, regardless of whether the Consent Agreement has
9 been issued by the Board's Chairman. Any modification to this original document
10 is ineffective and void unless mutually approved by the parties in writing.

11
12 7. Respondent understands that the foregoing Consent Agreement shall not
13 become effective unless and until adopted by the Board and signed by its
14 Chairman.

15 8. Respondent understands and agrees that if the Board does not adopt this
16 Consent Agreement, she will not assert as a defense that the Board's consideration
17 of this Consent Agreement constitutes bias, prejudice, prejudgment or other similar
18 defenses.

19
20 9. Respondent understands that this Consent Agreement is a public record that
21 may be publicly disseminated by the Board.

22
23 **FINDINGS OF FACT**

24 10. The Board has jurisdiction over the practice of Dispensing Opticians
25 pursuant to A.R.S. §§32-1671, *et seq.*
26

1 11. At all times relevant to the allegations underlying this Consent Agreement,
2 Respondent held Dispensing Optician License No. 3008i, granted by the Arizona
3 State Board of Dispensing Opticians.

4
5 12. On or about January 3rd, 2018, the Board received a complaint that an
6 employee of Target Optical Shop #1889 dispensed trial contact lenses to a
7 customer without there being a contact lens prescription for the customer on file in
8 the store.

9 13. The Board initiated an investigation and, on or about January 31, 2018, the
10 investigator submitted a report to the Board concluding that there were grounds to
11 support an allegation that Respondent dispensed the contact lenses without a
12 contact lens prescription being on file in the store.

14 14. On or about February 7, 2018, the Board provided Respondent with a copy
15 of the investigator's report and requested a written response to the issues raised.

16 15. On or about February 20, 2018, Respondent provided a written response to
17 the Board in which she admitted to dispensing the set of trial contact lenses
18 without there being a contact lens prescription on file in the store.
19

20 21 **CONCLUSIONS OF LAW**

22 16. After notice and opportunity for hearing, the Board may suspend, revoke, or
23 take other disciplinary action against a licensee for causes enumerated in A.R.S.
24 §32-1696 and as further defined in A.A.C. R4-20-118.

25 17. The conduct and circumstances above constitute cause for disciplinary
26

1 action pursuant to A.R.S. §32-1696(A)(8) (“... engage in any conduct that would
2 tend to do harm to the visual health of the public.”)

3 18. The conduct and circumstances above constitute cause for disciplinary
4 action pursuant to A.R.S. §32-1696(B) (“... a person who violates this chapter or a
5 board rule is subject to disciplinary action...”) through A.R.S. §32-1671(3)
6 (“...provided that contact lenses shall never be dispensed without a written contact
7 lens prescription being on file...”)

9
10 **ORDER**

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

13 1. Respondent shall pay a civil penalty in the amount of three hundred dollars
14 (\$300.00). This entire amount shall be paid within thirty (30) days of the effective
15 date of this consent agreement, and shall be paid in the form of a cashier’s check or
16 money order made payable to the Board; and

17 2. Dispensing Optician License No. 3008i shall be placed on probation for a
18 period of 12 months starting on the effective date of this Order. Terms of this
19 probation shall include the following:
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24 DATED AND EFFECTIVE this ___ day of ____, 2018.

25 ARIZONA BOARD OF DISPENSING OPTICIANS
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By: Dale Nyblade
Dale Nyblade
Chairman
Licensed Optician

By: Angela Sauser
Angela Sauser

Original of the foregoing filed
This 2 day of May, 2018, with:
AZ State Dispensing Opticians Board
1740 West Adams Street, Lower Level
Phoenix, Arizona 85007

Copy of the foregoing mailed by
U.S. Certified Mail this May day
of 2, 2018, to:

Copy of the foregoing mailed
This 2 day of May, 2018 to:
Scott Donald
Assistant Attorney General
License and Enforcement Section
2005 N. Central Ave.
Phoenix, Arizona 85004

By: Megan Davan