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

In the Matter of

Case No. 19-001 \_\_\_\_\_

**SOUTHWESTERN EYE CENTER  
110 S IDAHO RD., STE #160, APACHE  
JUNCTION, AZ 85119, LOE-001415;**

**SOUTHWESTERN EYE CENTER  
3710 W CENTRAL AVE, COOLIDGE, AZ  
85128, LOE-001416;**

**SOUTHWESTERN EYE CENTER  
4760 E FALCON DR, MESA, AZ 85215,  
LOE-001417;**

**SOUTHWESTERN EYE CENTER  
5632 E 5TH ST, TUCSON, AZ 85711,  
LOE-001418;**

**SOUTHWESTERN EYE CENTER  
75 COLONIA DESALUD SIERRA VISTA  
#A-100, SIERRA VISTA, AZ 85635,**

**Respondents.**

**CONSENT AGREEMENT/  
ORDER**

**RECITALS**

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements, and responsibilities of the Arizona State Board of Dispensing Opticians ("Board"), and under A.R.S. §§ 32-1671, et seq., and 41-1092.07(F)(5), Respondents Southwestern Eye Center, 110 S Idaho Rd., Ste #160, Apache Junction, AZ 85119, LOE-001415, holder of Optical Establishment License number 1415 issued by the Board ("Respondent 1415"); Southwestern Eye Center, 3710 W Central Ave, Coolidge, AZ 85128, holder of Optical Establishment License number 1416 issued by the Board ("Respondent 1416"); Southwestern Eye Center, 4760 E Falcon

1 Dr, Mesa, AZ 85215, holder of Optical Establishment License number 1417 issued by the  
2 Board ("Respondent 1417"); Southwestern Eye Center, 5632 E 5th St, Tucson, AZ 85711,  
3 holder of Optical Establishment License number 1418 issued by the Board ("Respondent  
4 1418"); and Southwestern Eye Center, 75 Colonia deSalud Sierra Vista #A-100, Sierra  
5 Vista, AZ 85635, presently not licensed with the Board, and the Board enter into the  
6 following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent  
7 Agreement") as the final disposition of this matter.  
8

9 1. Respondents have read and understand this Consent Agreement; has been provided  
10 the opportunity to discuss this Consent Agreement with an attorney; and knowingly,  
11 intelligently, and voluntarily enter into this Consent Agreement.

12 2. Respondents understand they have the right to a public administrative hearing  
13 concerning this matter, at which they could present evidence and cross-examine  
14 witnesses. By entering into this Consent Agreement, Respondents knowingly and  
15 voluntarily relinquish all rights to such an administrative hearing, as well as all rights of  
16 rehearing, review, reconsideration, appeal, judicial review or any other administrative  
17 and/or judicial action, concerning the matters set forth herein. Respondents affirmatively  
18 agree that this Consent Agreement shall be irrevocable.

19 3. Respondents understand that this Consent Agreement or any part of the Agreement  
20 may be considered in any future disciplinary action by the Board against Respondents.

21 4. Respondents understand that this Consent Agreement deals with Board Case No.  
22 19-001. The investigation into this case against Respondents shall be concluded upon the  
23 Board's adoption of this Consent Agreement.

24 5. All admissions made by Respondents in this Consent Agreement are made solely  
25 for the final disposition of this matter, and any related administrative proceedings or civil  
26

1 litigation involving the Board and Respondents. Any admissions made by Respondents  
2 in this Consent Agreement are not intended for any other use, such as in the context of  
3 another regulatory agency's proceedings, or civil or criminal proceedings, whether in the  
4 State of Arizona or in any other state or federal court.

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

11 7. Respondents understand that the foregoing Consent Agreement shall not become  
12 effective unless and until adopted by the Board and signed by its Chairman.

13 8. Respondents understand and agree that if the Board does not adopt this Consent  
14 Agreement, they will not assert as a defense that the Board's consideration of this  
15 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

16 9. Respondents understand that this Consent Agreement is a public record that may  
17 be publicly disseminated by the Board.

#### 18 **FACTUAL ALLEGATIONS**

19 20  
21 10. The Board has jurisdiction over the practice of Dispensing Opticians and  
22 Dispensing Optician Establishments pursuant to A.R.S. §§ 32-1671, *et seq.*

23 11. Respondent Southwestern Eye Center, 110 S Idaho Rd., Ste #160, Apache  
24 Junction, AZ 85119, LOE-001415, is the holder of Optical Establishment License  
25 number 1415 issued by the Board ("Respondent 1415").

26 12. Respondent Southwestern Eye Center, 3710 W Central Ave, Coolidge, AZ 85128

1 is the holder of Optical Establishment License number 1416 issued by the Board  
2 ("Respondent 1416").

3 13. Respondent Southwestern Eye Center, 4760 E Falcon Dr, Mesa, AZ 85215 is the  
4 holder of Optical Establishment License number 1417 issued by the Board ("Respondent  
5 1417").

6 14. Respondent Southwestern Eye Center, 5632 E 5th St, Tucson, AZ 85711 is the  
7 holder of Optical Establishment License number 1418 issued by the Board ("Respondent  
8 1418").

9 15. Respondent Southwestern Eye Center, 75 Colonia de Salud Sierra Vista #A-100,  
10 Sierra Vista, AZ 85635 ("Respondent Sierra Vista") is not presently not licensed with the  
11 Board.

12 16. None of the Respondents were licensed by the Board at any time relevant to the  
13 allegations of this Consent Agreement/ Order.

14 17. On or about January 29, 2019, Board staff became aware Respondents were  
15 operating as optical establishments.

16 18. Through subsequent investigation, Board staff confirmed Respondents 1415,  
17 1416, 1417, and 1418 had licensed dispensing opticians employed full-time on-site at  
18 their respective locations.

19 19. Additionally, Board staff confirmed Respondent Sierra Vista did not have a  
20 licensed dispensing optician employed full-time on-site.

### 21 **ALLEGATIONS OF VIOLATION**

22 20. Pursuant to A.R.S. § 32-1699, "The board may impose a civil penalty of not more  
23 than one thousand dollars against any person or entity acting without a license issued by  
24 the board in violation of this chapter."  
25  
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1 21. The conduct and circumstances above constitute cause for a civil penalty against  
2 each Respondent.

3 DATED AND EFFECTIVE this 24<sup>th</sup> day of FEBRUARY, 2019.

4 ARIZONA BOARD OF DISPENSING OPTICIANS  
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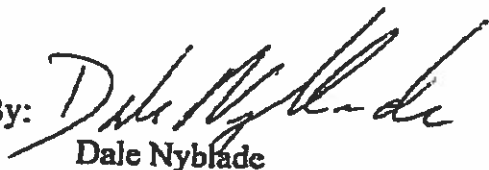
6 **ORDER**

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

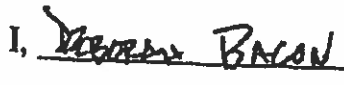
- 9 1. Each Respondent shall pay a civil penalty in the amount of two-hundred and fifty  
10 dollars (\$250.00) for a total civil penalty amount of one-thousand, two-hundred and fifty  
11 dollars (\$1,250.00). This entire amount shall be paid within thirty (30) days of the  
12 effective date of this consent agreement, and shall be paid in the form of a cashier's  
13 check or money order made payable to the Board.
- 14 2. This Consent Order is effective upon its acceptance by the Board and by  
15 Respondents as evidenced by the respective signatures thereto. The effective date of this  
16 Consent Order is the date the Agreement is signed by the Board and by Respondents. If  
17 the Agreement is signed on different dates, the later date shall be the effective date. The  
18 parties may execute this Consent Order in counterparts, and the parties understand and  
19 agree that copies of this Order, including facsimile or e-mail signatures thereto, shall have  
20 the same force and effect as originals.
- 22 3. The failure of any Respondent to complete or comply with any of the requirements  
23 or provisions of this Consent Order may be a violation of this Consent Order and A.R.S.  
24 § 32-1693(A)(3) ("[v]iolation of any Board order or rule").
- 25 4. This Consent Order is subject to the Board's approval and will be effective only  
26 when the Board accepts it. In the event the Board in its discretion does not approve this

1 Consent Order, it shall be deemed withdrawn and shall be of no evidentiary value, nor  
2 shall it be relied upon or introduced into evidence in any disciplinary action or legal  
3 matter by any party hereto, except that Respondents agree that should the Board reject  
4 this Consent Order and this case proceeds to hearing, Respondents shall assert no claim  
5 that the Board was prejudiced by its review and discussion of this document or of any  
6 records relating thereto.

7  
8 5. The Board has determined that this Consent Order protects the public safety and  
9 welfare and is more likely to rehabilitate Respondent than formal disciplinary  
10 proceedings.

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13 By:   
14 Dale Nyblade  
15 Chairman  
16 Licensed Optician

17 **CONSENT TO BOARD DECISION AND ORDER OF SOUTHWESTERN EYE**  
18 **CENTER, 110 S IDAHO RD., STE #160, APACHE JUNCTION, AZ 85119, LOE-**  
19 **001415; SOUTHWESTERN EYE CENTER, 3710 W CENTRAL AVE,**  
20 **COOLIDGE, AZ 85128, LOE-001416; SOUTHWESTERN EYE CENTER, 4760 E**  
21 **FALCON DR, MESA, AZ 85215, LOE-001417; SOUTHWESTERN EYE CENTER,**  
22 **5632 E 5TH ST, TUCSON, AZ 85711, LOE-001418; AND SOUTHWESTERN EYE**  
23 **CENTER, 75 COLONIA DESALUD SIERRA VISTA #A-100, SIERRA VISTA, AZ**  
24 **85635**

25 I, , am an authorized signer signing on behalf  
26 of Respondents in the above-entitled matter pending before the Arizona State Board of

1 Dispensing Opticians ("Board").

2 I have read and understand everything contained in the foregoing Findings of Fact,  
3 Conclusions of Law and Order. If this Consent Order is approved by the Board,  
4 Respondents agree to its immediate issuance and to be bound by its terms.

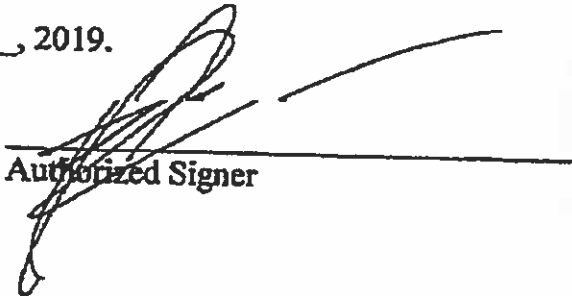
5 I am aware of the right to consult legal counsel prior to entering into the Order,  
6 and such consultation has either been obtained or is waived. I am aware of the right to  
7 an administrative hearing in this matter and, except as otherwise provided by the Consent  
8 Order, waive the same. No promises of any kind or nature whatsoever were made by the  
9 Board to induce consent to this Consent Order. I waive all rights on behalf of  
10 Respondents to challenge the foregoing Consent Order on appeal, or otherwise to the  
11 Board or any other court or tribunal.

12 I understand that a failure of Respondents to comply with any of the provisions of  
13 this Consent Order will be considered non-compliance and may constitute grounds for  
14 further disciplinary action; that the Consent Order may be considered in any future  
15 disciplinary action against Respondents; and that acceptance of this Consent Order does  
16 not preclude any other agency, subdivision or officer of this State or another city, county,  
17 state or federal agency from instituting other civil or criminal proceedings with respect to  
18 the conduct in issue as may be appropriate now or in the future.

19 I understand that the related investigation is a matter of public record.

20 By my signature, I verify that I have read and understand everything contained in  
21 the foregoing Consent Order.

22 Dated this 22 day of FEBRUARY, 2019.

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24   
25 \_\_\_\_\_  
26 Authorized Signer

1 Original of the foregoing filed  
2 this 4 day of March, 2019, 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 same day to:

9 Southwestern Eye Center  
10 110 S Idaho Rd., Ste #160  
11 Apache Junction, AZ 85119

12 Southwestern Eye Center  
13 3710 W CENTRAL AVE  
14 Coolidge, AZ 85128

15 Southwestern Eye Center  
16 4760 E Falcon Dr  
17 Mesa, AZ 85215

18 Southwestern Eye Center  
19 5632 E 5th St  
20 Tucson, AZ 85711

21 Southwestern Eye Center  
22 75 Colonia deSalud Sierra Vista, #A-100  
23 Sierra Vista, AZ 85635

24 Scott Donald  
25 Assistant Attorney General  
26 License and Enforcement Section  
2005 N. Central Ave.  
Phoenix, Arizona 85004

By: M. Donald