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8 **BEFORE THE**  
**STATE BOARD OF OPTOMETRY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:  
12 **SOPHIA THALIA PINCKNEY**  
13 **Spectacle Lens Dispenser Registration**  
14 **Applicant**  
Respondent.

Case No. 800-2016-019558

**STATEMENT OF ISSUES**

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16 Complainant alleges:

17 **PARTIES**

18 1. Jessica Siefertman (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the State Board of Optometry, Department of Consumer  
20 Affairs.

21 2. On or about September 4, 2015, the Medical Board of California, Department of  
22 Consumer Affairs received an application for a Spectacle Lens Dispenser Registration from  
23 Sophia Thalia Pinckney (Respondent). On or about March 24, 2015, Respondent certified under  
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
25 application. The Medical Board of California denied the application on December 4, 2015.<sup>1</sup>

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27 <sup>1</sup>The Registered Spectacle Lens Dispenser program was transferred from the jurisdiction of  
the Medical Board of California to the State Board of Optometry effective January 1, 2016.  
(Assem. Bill No. 684 (2015-2016 Reg. Sess.))  
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1 (1) Been convicted of a crime. A conviction within the meaning of this section  
2 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.  
3 Any action that a board is permitted to take following the establishment of a conviction  
4 may be taken when the time for appeal has elapsed, or the judgment of conviction has  
5 been affirmed on appeal, or when an order granting probation is made suspending the  
6 imposition of sentence, irrespective of a subsequent order under the provisions of Section  
7 1203.4, 1203.4a, or 1203.41 of the Penal Code.

8 (2) Done any act involving dishonesty, fraud, or deceit with the intent to  
9 substantially benefit himself or herself or another, or substantially injure another.

10 (3)(A) Done any act that if done by a licentiate of the business or profession in  
11 question, would be grounds for suspension or revocation of license.

12 (3)(B) The board may deny a license pursuant to this subdivision only if the crime  
13 or act is substantially related to the qualifications, functions, or duties of the business or  
14 profession for which application is made.

15 (b) Notwithstanding any other provision of this code, a person shall not be denied  
16 a license solely on the basis that he or she has been convicted of a felony if he or she has  
17 obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section  
18 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a  
19 misdemeanor if he or she has met all applicable requirements of the criteria of  
20 rehabilitation developed by the board to evaluate the rehabilitation of a person when  
21 considering the denial of a license under subdivision (a) of Section 482.

22 (c) Notwithstanding any other provisions of this code, a person shall not be denied  
23 a license solely on the basis of a conviction that has been dismissed pursuant to Section  
24 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that  
25 has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code  
26 shall provide proof of the dismissal.

27 (d) A board may deny a license regulated by this code on the ground that the  
28 applicant knowingly made a false statement of fact required to be revealed in the  
application for the license.

8. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the  
rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation  
furnished by the applicant or licensee.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board  
within the department pursuant to law to deny an application for a license or to suspend  
or revoke a license or otherwise take disciplinary action against a person who holds a  
license, upon the ground that the applicant or the licensee has been convicted of a crime  
substantially related to the qualifications, functions, and duties of the licensee in

1 question, the record of conviction of the crime shall be conclusive evidence of the fact  
2 that the conviction occurred, but only of that fact, and the board may inquire into the  
3 circumstances surrounding the commission of the crime in order to fix the degree of  
4 discipline or to determine if the conviction is substantially related to the qualifications,  
5 functions, and duties of the licensee in question.

6 As used in this section, "license" includes "certificate," "permit," "authority," and  
7 "registration."

8 **REGULATORY PROVISIONS**

9 10. California Code of Regulations, title 16, section 1516 states:

11 (a) When considering the denial of a certificate of registration under Section 480 of  
12 the Code, the Board, in evaluating the rehabilitation of the applicant and his/her present  
13 eligibility for a certificate of registration, will consider the following criteria:

14 (1) The nature and severity of the act(s) or crime(s) under consideration as grounds  
15 for denial.

16 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under  
17 consideration as grounds for denial which also could be considered as grounds for denial  
18 under Section 480 of the Code.

19 (3) The time that has elapsed since commission of the act(s) or crime(s) referred to  
20 in subdivision (1) or (2).

21 (4) The extent to which the applicant has complied with any terms of parole,  
22 probation, restitution, or any other sanctions lawfully imposed against the applicant.

23 (5) Evidence, if any, of rehabilitation submitted by the applicant. . . .

24 11. California Code of Regulations, title 16, section 1517 provides, in pertinent part, that  
25 for the purpose of denial, suspension, or revocation of the certificate of registration, a crime or  
26 act shall be considered to be substantially related to the qualifications, functions, and duties if to a  
27 substantial degree it evidences present or potential unfitness to perform the functions authorized  
28 by his/her certificate of registration in a manner consistent with the public health, safety, or  
welfare.

**CAUSE FOR DENIAL OF APPLICATION**

**(April 29, 2014 Criminal Convictions for DUI on February 27, 2014)**

12. Respondent's application is subject to denial under section 480(a)(1) of the Code  
in that she was convicted of crimes that are substantially related to the qualifications, duties, and  
functions of a Spectacle Lens Dispenser. The circumstances are as follows:

1 a. On April 29, 2014, in a criminal proceeding entitled *People of the State of*  
2 *California v. Sophia Thalia Pinckney*, in Riverside County Superior Court, case number  
3 RIM1404998, Respondent was convicted on her plea of guilty to violating Vehicle Code section  
4 23152(a), driving under the influence, and Vehicle Code section 23152(b), driving with a blood  
5 alcohol concentration (BAC) of .08 percent or more, misdemeanors.

6 b. As a result of the convictions, Respondent was granted summary probation  
7 for three years. Respondent was ordered committed to the custody of the sheriff for six days,  
8 with pre-custody credit for one day, to be served on the Electronic Monitoring program.  
9 Respondent was required to complete a three-month First Offender DUI, pay fees and fines, and  
10 comply with DUI probation terms.

11 c. The facts that led to the convictions are that at approximately 1:37 a.m., on  
12 or about February 27, 2014, two officers with California Highway Patrol (CHP) were patrolling  
13 an area of Riverside when they observed Respondent driving the wrong way on a one-way street.  
14 After conducting an enforcement stop, the officers made contact with Respondent. They  
15 observed Respondent's eyes were red and watery, her speech was slurred, and there was a strong  
16 odor of alcohol on her breath. Respondent admitted she had consumed one beer and "a hit" of  
17 marijuana earlier in the evening. Respondent submitted to a series of field sobriety tests which  
18 she was unable to complete as explained and demonstrated by the officer. Respondent provided  
19 two breath samples which were analyzed by the preliminary alcohol screening device with a BAC  
20 of .15 and .13 percent, respectively. Based on Respondent's objective symptoms of intoxication,  
21 she was arrested for driving under the influence.

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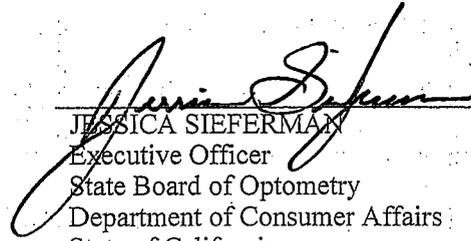
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the State Board of Optometry issue a decision:

1. Denying the application of Sophia Thalia Pinckney for a Spectacle Lens Dispenser Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: March 3, 2016

  
JESSICA SIEFERMAN  
Executive Officer  
State Board of Optometry  
Department of Consumer Affairs  
State of California  
*Complainant*

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