

BEFORE THE KANSAS BOARD OF EXAMINERS IN OPTOMETRY

In the Matter of)
) Case No. 2016-3
JASON R. PINGEL, OD,)
Kansas License No. 1671)
_____)

FINAL ORDER

NOW on this 15th day of January, 2016, comes before the Kansas Board of Examiners in Optometry (the “Board”), the application of Jason R. Pingel, OD (the “Applicant”) for registration of the trade name Mission EyeCare at 6120 Johnson Dr., Mission, KS 66202 (“Trade Name”).

Pursuant to the authority granted to the Board by the Kansas Optometry Act, K.S.A. 65-1501, *et seq.*, and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.*, the Board enters this Final Order in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, the Board makes the following findings, conclusions and order:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

For purposes of this order, the Board makes the following findings of fact and conclusions of law:

1. On July 24, 2015, as the result of auditing the trade name approval process, the Board requested the Applicant to provide documentation of approval of the use of the trade name Mission EyeCare.
2. On July 29, 2015, the Board received Applicant’s application for registration of the trade name (“Applicant’s Application”).

3. Pursuant to K.S.A. 65-1522, an Optometrist may practice optometry in the State of Kansas using a trade or assumed name only if that name has been approved by the Board.

4. The Board has adopted certain regulations applicable to trade names. See K.A.R. 65-9-1 through 65-9-5.

5. On October 5, 2015, the Board disapproved Applicant's application as being too broad.

6. On October 12, 2015, the Applicant sought a hearing and reconsideration by the Board.

7. On January 15, 2016, after proper notice, an adjudicative hearing was conducted by the Board. The Applicant appeared in person and with counsel, Mande Rowen Pingel. The Applicant has operated under the trade name Mission EyeCare from and since his purchase of the business approximately five years ago without obtaining Board approval for use of the trade name. Denial of the untimely trade name application at this time could cause consumer confusion.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's Application is hereby GRANTED and an administrative fine of One Thousand Dollars and No/100 (\$1,000.00) is imposed against the Applicant for unauthorized use of a trade name.

NOTICES

The Applicant is hereby notified as follows:

8. The Applicant may request a hearing pursuant to the Kansas State Administrative Procedure Act by filing a written request with the Kansas Board of Examiners in Optometry,

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3109 West 6th Street, Ste. B, Lawrence, KS 66409 within fifteen (15) days after service of this order.

9. If a hearing is not requested as described above, the Order granting the Applicant's Application for approval of the Trade Name and imposing an administrative fine shall become a final order of the Board, effective upon the expiration of the time to request a hearing.


10. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

11. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is:

Jan Murray
Executive Officer
Kansas Board of Examiners in Optometry
3109 West 6th Street, Ste. B
Lawrence, KS 66049

IT IS SO ORDERED.

24 February 2016
Date



Ron Hansen, O.D., President
Kansas Board of Examiners in Optometry

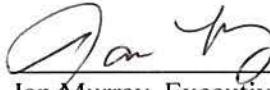
CERTIFICATE OF SERVICE

I hereby certify that I did, on the 29 day of February, 2016, deposit in the United States Mail, postage prepaid, a copy of the foregoing Final Order, properly addressed to the following:

PERSONAL AND CONFIDENTIAL

Jason Pingel, OD
Mission EyeCare
6120 Johnson Dr.
Mission, KS 66202

Mandee Rowen Pingel
Davis Pingel
1801 NW Platte Rd., Suite 250
Kansas City, MO 64150



Jan Murray, Executive Officer
Kansas Board of Examiners in Optometry