

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME
FURNISHINGS AND THERMAL INSULATION
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

JOHN FOTO; SANTA FE SECONDS
8615 LONG Beach Blvd
South Gate, CA 90280

Furniture and Bedding Retailer License

Respondent.

Case No. AN 2012-36

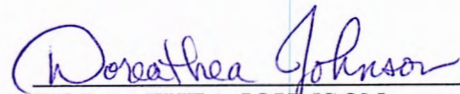
OAH No. 2013100586

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Director of Consumer Affairs as the Decision and Order in the above entitled matter.

This Decision shall become effective on APR 25 2014.

IT IS SO ORDERED MAR 26 2014.



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 LINDA L. SUN
Deputy Attorney General
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Attorneys for Complainant

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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR, HOME**
11 **FURNISHINGS AND THERMAL INSULATION**
12 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:
13 **JOHN FOTO; SANTA FE SECONDS**
14 **8615 Long Beach Blvd**
15 **South Gate, CA 90280**
16 **Furniture and Bedding Retailer License**
Respondent.

Case No. AN 2012-436

OAH No. 2013100586

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Tonya Blood ("Complainant") is the Bureau Chief of the Bureau of Electronic and
22 Appliance Repair, Home Furnishings and Thermal Insulation ("Bureau"). She brought this action
23 solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney
24 General of the State of California, by Linda L. Sun, Deputy Attorney General.

25 2. Respondent John Foto; Santa Fe Seconds ("Respondent") is represented in this
26 proceeding by attorney Fredrick M. Ray, whose address is: 1100 West Town & Country Road,
27 10th Floor, Suite 1010, Orange, CA 92868.
28

1 10. Respondent agrees that his Furniture and Bedding Retailer License is subject to denial
2 and he agrees to be bound by the Director's probationary terms as set forth in the Disciplinary
3 Order below.

4 **CONTINGENCY**

5 11. This stipulation shall be subject to approval by the Director of Consumer Affairs or
6 the Director's designee. Respondent understands and agrees that counsel for Complainant and the
7 staff of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal
8 Insulation may communicate directly with the Director and staff of the Department of Consumer
9 Affairs regarding this stipulation and settlement, without notice to or participation by Respondent.
10 By signing the stipulation, Respondent understands and agrees that he may not withdraw his
11 agreement or seek to rescind the stipulation prior to the time the Director considers and acts upon
12 it. If the Director fails to adopt this stipulation as the Decision and Order, the Stipulated
13 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
14 be inadmissible in any legal action between the parties, and the Director shall not be disqualified
15 from further action by having considered this matter.

16 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
17 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
18 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

19 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
20 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
22 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
23 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
24 writing executed by an authorized representative of each of the parties.

25 14. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Director may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:

28 ///

DISCIPLINARY ORDER

1
2 IT IS HEREBY ORDERED that Respondent's Furniture and Bedding Retailer License will
3 be issued and immediately revoked. The revocation will be stayed and the Respondent placed on
4 three (3) years probation on the following terms and conditions.

5 1. **Obey All Laws.** During the period of probation, Respondent shall comply with all
6 statutes, regulations and rules governing electronic and appliance repair.

7 2. **Comply with Probation Program.** Respondent shall fully comply with the
8 probation established by the Bureau and shall cooperate with the representatives of the Bureau.

9 3. **Submit Quarterly Reports.** Respondent shall submit quarterly reports, under
10 penalty of perjury. The reports shall certify and document compliance with all the conditions of
11 probation.

12 4. **Maintain Valid Registration.** Respondent shall, at all times while on probation,
13 maintain an active current registration with the Bureau, including any period during which
14 suspension or probation is tolled.

15 Should Respondent's registration, by operation of law or otherwise, expire, upon renewal or
16 reinstatement Respondent's registration shall be subject to any and all terms of this probation not
17 previously satisfied.

18 5. **Personal Appearance at Bureau Office.** Respondent shall report, by personal
19 appearance of Respondent or Respondent's authorized representative, to the designated location
20 on a schedule set by the Bureau, but no more frequently than each quarter, on the methods used
21 and success achieved in maintaining compliance with the terms and conditions of probation.

22 6. **Cooperation with Bureau Inspections.** Respondent shall provide Bureau
23 representatives unrestricted access to inspect all business locations, including business records
24 required to be maintained in accordance with sections 9847 and 9847.5 of the Business and
25 Professions Code.

26 7. **Violation of Probation.** If a Respondent violates the conditions of his probation, the
27 Bureau, after giving the Respondent notice and an opportunity to be heard, may set aside the stay
28 order and impose the stayed discipline revocation of the Respondent's registration.

1 If during the period of probation, an accusation or petition to revoke probation has been
2 filed against Respondent's registration or the Attorney General's Office has been requested to
3 prepare an accusation or petition to revoke probation against the Respondent's registration, the
4 probationary period shall automatically be extended and shall not expire until the accusation or
5 petition has been acted upon by the Bureau. Upon successful completion of probation, the
6 Respondent's registration will be fully restored.

7 8. **Tolling.** Respondent's probation is tolled, if and when he fails to own and operate a
8 Bureau-licensed business in California. Respondent must provide written notice to the Bureau
9 within 15 days of any such change of license status.

10 9. **Surrender of License.** During Respondent's term of probation, if he ceases
11 operating or owning a Bureau-licensed business, or is otherwise unable to satisfy the conditions
12 of probation, Respondent may surrender his license to the Bureau. The Bureau reserves the right
13 to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
14 take any other action deemed appropriate and reasonable under the circumstances, without further
15 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
16 the conditions of probation. Surrender of Respondent's license shall be considered a disciplinary
17 action and shall become a part of Respondent's license history with the Bureau.

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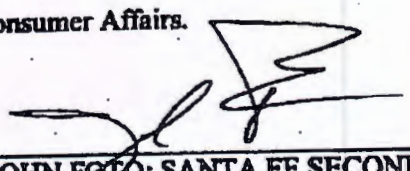
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ACCEPTANCE

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will have on my Furniture and Bedding Retailer License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of Consumer Affairs.

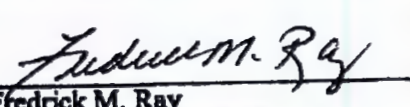
DATED: 1/29/14



JOHN FOTO; SANTA FE SECONDS
Respondent

I have read and fully discussed with Respondent John Foto; Santa Fe Seconds the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/29/14



Fredrick M. Ray
Attorney for Respondent

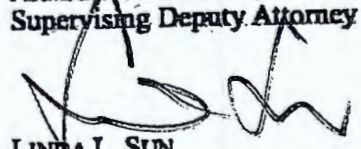
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs

Dated:

1-30-14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



LINDA L. SUN
Deputy Attorney General
Attorneys for Complainant

LA2013508922

Exhibit A

Statement of Issues No. AN 2012-436

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Attorney General of California
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3 LINDA L. SUN
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7 *Attorneys for Complainant*

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11 **FURNISHINGS, AND THERMAL INSULATION**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:
14 **JOHN FOTO; SANTA FE SECONDS**
15 Applicant for a Furniture and Bedding Retailer
16 Respondent.

Case No. AN-2012-436

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

- 19 1. Tonya Blood (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Bureau Chief of the Bureau of Electronic and Appliance Repair, Home
21 Furnishings and Thermal Insulation (Bureau), Department of Consumer Affairs.
- 22 2. On or about September 28, 2012, the Bureau received an application for a Furniture
23 and Bedding Retailer from John Foto; Santa Fe Seconds (Respondent). On or about September
24 18, 2012, John Foto; Santa Fe Seconds certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Bureau denied the application on
26 January 28, 2012.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Bureau under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

7 "(a) A board may deny a license regulated by this code on the grounds that the
8 applicant has one of the following:

9 "(1) Been convicted of a crime. A conviction within the meaning of this
10 section means a plea or verdict of guilty or a conviction following a plea of nolo
11 contendere. Any action that a board is permitted to take following the establishment of a
12 conviction may be taken when the time for appeal has elapsed, or the judgment of
13 conviction has been affirmed on appeal, or when an order granting probation is made
14 suspending the imposition of sentence, irrespective of a subsequent order under the
15 provisions of Section 1203.4 of the Penal Code.

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

18 ...

19 "(c) A board may deny a license regulated by this code on the ground that the
20 applicant knowingly made a false statement of fact required to be revealed in the application for
21 the license."

22 5. Section 9841 states in pertinent part:

23 "(a) The director may deny ... the registration of a service dealer for any of the
24 following acts or omissions done by himself ... and related to the conduct of his ... business:

25 "(1) Making or authorizing any statement or advertisement that is
26 untrue or misleading, and that is known, or which by the exercise of
27 reasonable care should be known, to be untrue or misleading.

28 ...

1 “(3) Any other conduct that constitutes fraud or dishonest dealing.

2 ...

3 “(7) Conviction of a crime that has a substantial relationship to the
4 qualifications functions and duties of a registrant under this chapter, in which
5 event the record of the conviction shall be conclusive evidence thereof.

6 ...

7 “(8)(b) The director may also deny, ... the registration of a service dealer if
8 the applicant or registrant, as the case may be, has committed acts or crimes
9 constituting grounds for denial of licensure under Section 480.”

10 6. Section 19211 states in pertinent part:

11 Any person who has been denied a license, . . . , shall be prohibited from serving as a
12 member of any licensed partnership, or as an officer or director of any licensed corporation, or as
13 an officer or person acting in a managerial capacity of any licensed firm or association, and the
14 employment, election, or association of a person in this capacity by a licensee shall constitute
15 grounds for disciplinary action against the licensee.

16 **REGULATORY PROVISIONS**

17 7. California Code of Regulations, title 16, section 2767 states:

18 “For the purposes of denial, suspension, or revocation of the registration of a repair service
19 dealer pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
20 Code, a crime or act shall be considered to be substantially related to the qualifications, functions
21 or duties of a service dealer if to a substantial degree it evidences present or potential unfitness of
22 a service dealer to perform the functions authorized by his registration in a manner consistent
23 with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to
24 those involving the following:

25 “(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of, or conspiring to violate any provision or term of Chapter 20, Division 3 of the
27 Business and Professions Code.

28 “(b) Conviction of a crime involving fiscal dishonesty.”

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Criminal Convictions)**

3 8. Respondent's application is subject to denial pursuant to Code sections 480,
4 subdivision (a)(1), 9841 subdivision (a)(7) and (8)(b), in conjunction with California Code of
5 Regulations, title 16, section 2767, in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions or duties of a Furniture and Bedding Retailer, as follows:

7 a. On or about May 25, 2012, after pleading *nolo contendere*, Respondent was
8 convicted of one misdemeanor count of violating Penal Code section 350, subdivision (a)(2)
9 [manufacture/sell/possess counterfeit goods, 1,000 + articles], in the criminal proceeding entitled
10 *The People of the State of California v. John Philip Foto II* (Super. Ct. Los Angeles County,
11 2009, No. 2DY00332). The court placed Respondent on probation for a period of 36 months and
12 fined him. The circumstances surrounding the conviction are that in or about 2009, Respondent
13 knowingly possessed for sale counterfeit Ed Hardy brand named clothing at his store in Santa Fe
14 Outlets.

15 b. On or about April 15, 2002, after pleading *nolo contendere*, Respondent was
16 convicted of one misdemeanor count of violating Penal Code section 242 [battery], in the
17 criminal proceeding entitled *The People of the State of California v. John Philip Foto II* (Super.
18 Ct. Los Angeles County, 2001, No. 2SG00095). The court placed Respondent on probation for a
19 period of 36 months and fined him. The circumstances surrounding the conviction are that on or
20 about December 21, 2001, the Respondent used force and violence on a customer over a pricing
21 dispute on a piece of clothing item.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 **(Fraud or Dishonest Dealing)**

24 9. Respondent's application is subject to denial pursuant to Code sections 480,
25 subdivision (a)(2) and 9841 subdivision (a)(3), in conjunction with California Code of
26 Regulations, title 16, section 2767, subdivision (b), in that Respondent was convicted of a crime
27 that constitutes fraud or dishonest dealing. Complainant refers to, and this reference incorporates,
28 the allegations set forth above to paragraph 8 (a) inclusive, as though set forth fully.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Untrue or Misleading Statement)**

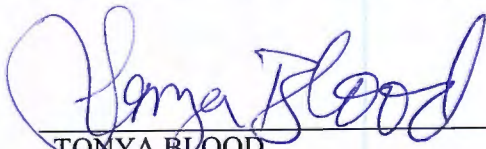
3 10. Respondent's application is subject to denial pursuant to Code sections 480,
4 subdivision (c) and 9841, subdivision (a)(1), in that on or about September 18, 2012, in his
5 application for a Furniture and Bedding Retailer, Respondent failed to disclose his April 15, 2002
6 conviction. Complainant refers to, and this reference incorporates, the allegations set forth above
7 to paragraph 8 (b) inclusive, as though set forth fully.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Bureau issue a decision:

- 11 1. Denying the application of John Foto; Santa Fe Seconds for a Furniture and Bedding
- 12 Retailer License;
- 13 2. Prohibiting John Foto; Santa Fe Seconds from serving as a member of any licensed
- 14 partnership, or as an officer or director of any licensed corporation, or as an officer or person
- 15 acting in a managerial capacity of any licensed firm or association; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: SEP 25 2013



19 TONYA BLOOD
20 Bureau Chief
21 Bureau of Electronic and Appliance Repair
22 Department of Consumer Affairs
23 State of California
24 Complainant

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26
27
28 LA2013508922