

**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:

Case No. AN 2012-306

ROBERT SERVANTES AKA ROBERT
CERVANTES AKA ROBERTO CERVANTES
AKA ROBERTO SERVANTES
2323 East Norwich
Fresno, CA 93726


OAH No. 2013050120

Respondent.

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 KENT D. HARRIS
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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**

12 In the Matter of the Statement of Issues
Against:
13 **ROBERT SERVANTES AKA ROBERT**
14 **CERVANTES AKA ROBERTO**
15 **CERVANTES AKA ROBERTO**
16 **SERVANTES**
2323 East Norwich
Fresno, CA 93726

Case No. AN 2012-306

OAH No. 2013050120

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

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

21 PARTIES

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

26 ///

27 ///

1 2. Respondent Robert Servantes aka Robert Cervantes aka Roberto Cervantes aka
2 Roberto Servantes ("Respondent") is representing himself in this proceeding and has chosen not
3 to exercise his right to be represented by counsel.

4 3. On or about April 5, 2012, Respondent filed an application dated March 14, 2012,
5 with the Director of Consumer Affairs to obtain an Appliance Service Dealer Registration.

6 JURISDICTION

7 4. Statement of Issues No. AN 2012-306 was filed before the Director of Consumer
8 Affairs (Director), for the Bureau, and is currently pending against Respondent. The Statement of
9 Issues and all other statutorily required documents were properly served on Respondent on April
10 19, 2013. A copy of Statement of Issues No. AN 2012-306 is attached as exhibit A and
11 incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Statement of Issues No. AN 2012-306. Respondent has also carefully read, and understands the
15 effects of this Stipulated Settlement and Disciplinary Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
18 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
19 the right to present evidence and to testify on his own behalf; the right to the issuance of
20 subpoenas to compel the attendance of witnesses and the production of documents; the right to
21 reconsideration and court review of an adverse decision; and all other rights accorded by the
22 California Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Statement of
27 Issues No. AN 2012-306.

1 9. Respondent agrees that his Appliance Service Dealer Registration 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 10. 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 may communicate directly with the Director and staff of the Department of
8 Consumer Affairs regarding this stipulation and settlement, without notice to or participation by
9 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
10 withdraw his agreement or seek to rescind the stipulation prior to the time the Director considers
11 and acts upon it. If the Director fails to adopt this stipulation as the Decision and Order, the
12 Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this
13 paragraph, it shall be inadmissible in any legal action between the parties, and the Director shall
14 not be disqualified from further action by having considered this matter.

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

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

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

27 ///

DISCIPLINARY ORDER

1
2 IT IS HEREBY ORDERED that Appliance Service Dealer Registration will be issued to
3 Respondent Robert Servantes aka Robert Cervantes aka Roberto Cervantes aka Roberto Servantes
4 by the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation and
5 immediately revoked. The revocation will be stayed and Respondent placed on three (3) years
6 probation on the following terms and conditions.

7 1. **Obey All Laws.** During the period of probation, Respondent(s) shall comply with all
8 statutes, regulations and rules governing electronic and appliance repair.

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

11 3. **Submit Quarterly Reports.** Respondent shall submit quarterly reports, under
12 penalty of perjury. The reports shall certify and document compliance with all the conditions of
13 probation.
14

15 4. **Maintain Valid Registration.** Respondent shall, at all times while on probation,
16 maintain an active current registration with the Bureau, including any period during which
17 suspension or probation is tolled.
18

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

22 5. **Personal Appearance at Bureau Office.** Report, by personal appearance of
23 Respondent or Respondent's authorized representative, to the Bureau office on a schedule set by
24 the Bureau, but no more frequently than each quarter, on the methods used and success achieved
25 in maintaining compliance with the terms and conditions of probation.

26 ///

27

28 ///

1 6. **Cooperation with Bureau Inspections.** Provide Bureau representatives unrestricted
2 access to inspect all business locations, including business records required to be maintained in
3 accordance with Section 9847 and 9847.5 of the Business and Professions Code.

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

7
8 If during the period of probation, an accusation or petition to revoke probation has been
9 filed against Respondent's registration or the Attorney General's Office has been requested to
10 prepare an accusation or petition to revoke probation against the Respondent's registration, the
11 probationary period shall automatically be extended and shall not expire until the accusation or
12 petition has been acted upon by the Bureau. Upon successful completion of probation, the
13 Respondent's registration will be fully restored.

14 8. **Surrender of License.** During probation, if Respondent ceases practicing due to
15 retirement, health reasons, or is otherwise unable to satisfy the conditions of probation,
16 Respondent may surrender his license to the Bureau. The Bureau reserves the right to evaluate
17 Respondent's request and to exercise its discretion whether to grant the request without further
18 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to
19 the conditions of probation.

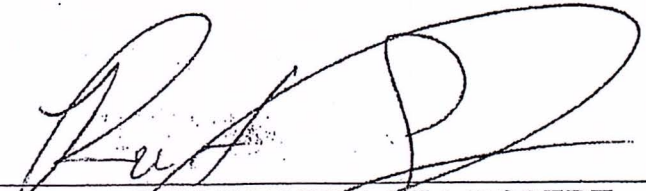
20 Surrender of Respondent's license shall be considered a disciplinary action and shall
21 become a part of Respondent's license history with the Bureau. A licensee who surrenders his
22 license may petition the Board for reinstatement no sooner than one (1) year from the effective
23 date of the disciplinary decision for the surrender.

24
25 9. **Tolling of Probation.** Respondent's probationary period is tolled, if and when he
26 fails to own and operate a Bureau-licensed business in California. Respondent must provide
27 written notice to the Bureau within fifteen (15) days of any such change of license status.

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Appliance Service Dealer Registration. 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:

11/20/13



ROBERT SERVANTES AKA ROBERT CERVANTES AKA ROBERTO CERVANTES AKA ROBERTO SERVANTES

Respondent

ENDORSEMENT

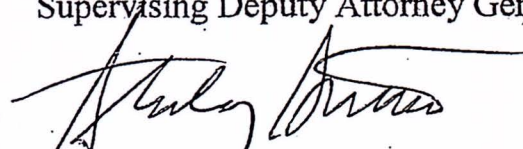
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs

Dated:

11/21/2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General



STERLING A. SMITH
Deputy Attorney General
Attorneys for Complainant

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11
12 In the Matter of the Statement of Issues
Against:

Case No. AN 2012-306

13 **ROBERT SERVANTES, AKA**
14 **ROBERT CERVANTES, AKA**
15 **ROBERTO CERVANTES, AKA**
ROBERTO SERVANTES

STATEMENT OF ISSUES

16 **Applicant/Respondent.**

17
18 Tonya Blood ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Statement of Issues solely in her official capacity as the
21 Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal
22 Insulation ("Bureau"), Department of Consumer Affairs.

23 2. On or about April 5, 2012, the Bureau received an application for an Appliance
24 Service Dealer Registration from Robert Servantes, also known as Robert Cervantes, Roberto
25 Cervantes, and Roberto Servantes ("Respondent"). On or about March 14, 2012, Robert
26 Servantes certified under penalty of perjury to the truthfulness of all statements, answers, and
27 representations in the application. The Bureau denied the application on October 2, 2012.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUTORY AND REGULATORY PROVISIONS

3. Business and Professions Code (“Code”) section 9831 states, in pertinent part, that the Director shall refuse to validate the registration of an electronic appliance repair dealer if the applicant has committed acts or crimes constituting grounds for denial of licensure under section 480 of that code.

4. Code Section 9841 states, in pertinent part:

(a) The director may refuse to validate, or may invalidate temporarily or permanently the registration of a service dealer for any of the following acts or omissions done by himself or herself or any employee, partner, officer, or member of the service dealer and related to the conduct of his or her business:

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

5. Code section 480, states, in pertinent part:

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

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

6. Code section 22 states:

Board," as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency.

7. Code section 477, subdivision (b), states, “‘License’ includes certificate, registration or other means to engage in a business or profession regulated by this code.”

8. California Code of Regulations, title 16, 2767 states, in pertinent part:

For the purposes of denial, suspension, or revocation of the registration of a repair service dealer pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a service dealer if to a substantial degree it evidences present or potential unfitness of a service dealer to perform the

1 functions authorized by his registration in a manner consistent with the public health,
2 safety, or welfare.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 (Criminal Convictions)

5 9. Respondent's application is subject to denial pursuant to Code section 9841,
6 subdivision (a)(7) and Code section 480 (a)(1), in that Respondent committed crimes that are
7 substantially related to the qualifications, functions or duties of an appliance service dealer, as
8 follows:

9 a. On or about April 13, 2009, in the case entitled *People v. Robert Servantes* (Fresno
10 County Superior Court (2009), Case No. F09901645), the court convicted Respondent on his plea
11 of no contest of violating Penal Code section 12021, subdivision (a)(1) (felon in possession of a
12 firearm), a felony. The circumstances of the crime are that on or about March 17, 2009, peace
13 officers from the Fresno Police Department went to Respondent's dwelling in response to a report
14 of domestic violence. The officers observed that there were multiple holes in the bedroom door,
15 and Respondent told them that he had damaged it during an altercation with his domestic partner.
16 The officers photographed scratches on Respondent's partner and then searched Respondent's
17 truck. Inside the truck the officers found marijuana, including marijuana inside a plastic cup,
18 where Respondent told them it would be, as well as a .22 caliber rifle without a stock under some
19 power tools. Respondent told them he intended to fix the rifle. Respondent was a convicted felon,
20 as set forth in subparagraph b, below.

21 b. On or about July 23, 1999, in the case entitled *People v. Robert Servantes* (Fresno
22 County Superior Court (1999), Case No. F99903127-9), the court convicted Respondent on his
23 plea of no contest of violating Health and Safety Code section 11377(a) (unlawful possession of a
24 controlled substance), a felony. Respondent was permitted to participate in the deferred entry of
25 judgment program under Penal Code sections 1000 *et seq.* On or about May 1, 2003, Respondent
26 was terminated from the program due to multiple positive test results for illicit drugs, and on June
27 7, 2003, was sentenced on his previously deferred no contest plea to felony violation of Health
28 and Safety Code section 11377(a). The circumstances of the crime are on or about March 6, 1999,
peace officers from the Fresno Police Department responded to a report that two individuals were

1 removing the tires from a parked vehicle. The officers found that the vehicle had been stolen.
2 When questioned, Respondent admitted that he and another individual removed the tires, but
3 stated that they had been returned to the vehicle. The peace officers entered Respondent's
4 dwelling and found a car jack, a tire iron, a plastic bag containing a white rocky substance, and a
5 plate with fifteen portions of a white rocky substance near a small scale on the kitchen table.
6 Respondent was searched and two bundles of the white rocky substance were found in his pocket.
7 Respondent was subsequently charged and convicted for possession of amphetamine.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 **(Committed Acts Which If Done By a Licentiate)**

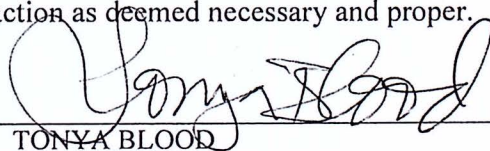
10 10. Respondent's application is subject to denial under Code section 480,
11 subdivision (a)(3)(A), in that he committed acts, which if done by a licentiate of the profession
12 would constitute grounds for discipline under the Code as set forth in paragraph 9, above.

13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Director of Consumer Affairs issue a decision:

- 16 1. Denying the application of Robert Servantes, also known as Robert Cervantes,
17 Roberto Cervantes, and Roberto Servantes, for an Appliance Service Dealer Registration; and,
18 2. Taking such other and further action as deemed necessary and proper.

19 DATED: **APR 11 2013**

20 

21 TONYA BLOOD
22 Chief
23 BUREAU OF ELECTRONIC AND APPLIANCE
24 REPAIR, HOME FURNISHINGS AND THERMAL
25 INSULATION
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

SA2012108908
11039685.doc