

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF ELECTRONIC AND APPLIANCE REPAIR
HOME FURNISHING AND THERMAL INSULATION
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

KHAMPHANH THEPHAVONG,
dba AMERITECH BUSINESS SYTEMS
1561 Coventry
Fresno, California 93727

Case No. AN-2009-1630

OAH No. 2011060878

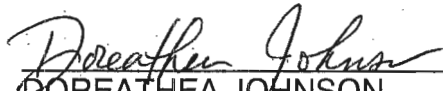
Respondent.

DECISION

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

This Decision shall become effective JUL 24 2013.

IT IS SO ORDERED this 24th day of June, 2013.



DOREATHEA JOHNSON
Deputy Director, Legal Affairs
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
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 **FURNISHING AND THERMAL INSULATION**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

13 **KHAMPHANH THEPHAVONG,**
14 **dba AMERITECH BUSINESS SYSTEMS**
15 **1561 Coventry**
Fresno, California 93727

16 Respondent.

Case No. AN-2009-1630

OAH No. 2011060878

**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. Rick Fong was the Acting Bureau Chief of the Bureau of Electronic and Appliance
22 Repair at the time the Matter of the Statement of issues Against Khamphanh Thephavong,
23 dba Ameritech Business Systems was filed, and brought this action solely in his official capacity.
24 Currently Joanne Mikami, Operational Program Manager, (Complainant) is the Acting Bureau
25 Chief. She is represented in this matter by Kamala D. Harris, Attorney General of the State of
26 California, by Lorrie M. Yost, Deputy Attorney General.

27 ///

28 ///

DISCIPLINARY ORDER

1
2 IT IS HEREBY ORDERED that Respondent Ameritech Business Systems; Khamphanh
3 Thephavong that Electronic Service Dealer Registration will be issued and immediately revoked.
4 The revocation will be stayed and the Respondent placed on three (3) years probation on the
5 following terms and conditions.

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

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

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

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

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

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

22 6. **Criminal Checks.** Respondent shall furnish to the Bureau a full set of electronic
23 fingerprints for purposes of conducting criminal history record checks through the Department of
24 Justice and the United States Federal Bureau of Investigation. Respondent shall not engage in
25 electronic repair until he has been notified by the Bureau, in writing, that he has cleared the
26 criminal history background check. .

27 7. **Place of Practice.** Respondent shall not enter nor engage in electronic repair in a
28 consumer's place of residence

1 8. **Interviews with Bureau.** Respondent shall be available in person upon request for
2 interviews either at Respondent's place of business, Bureau offices, or other such location as may
3 be designated by the Bureau, with or without prior notice, throughout the term of probation.

4 9. **Notification to Consumers.** Before providing a written estimate for repair,
5 Respondent shall notify consumers in writing that his electronic repair dealer's registration has
6 been placed on probation, and that a copy of the Order and Statement of Issues may be obtained
7 from the Bureau by contacting (916) 999-2041, or by visiting the Bureau's website at
8 <http://www.bearhfti.ca.gov>, if the Bureau posts these documents online.

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

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

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

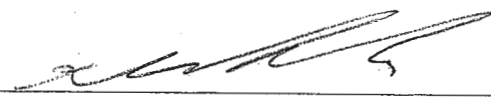
28 ///

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

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Electronic 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: 3-21-13

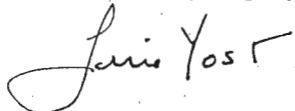

AMERITECH BUSINESS SYSTEMS;
KHAMPHANH THEPHAVONG
Respondent

ENDORSEMENT

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

Dated: 12-20-12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


LORRIE M. YOST
Deputy Attorney General
Attorneys for Complainant

SA2010101612
10745785.doc

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
4 State Bar No. 119088
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

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

Case No. AN-2009-1630

13 **KHAMPHANH THEPHAVONG,**
14 **dba AMERITECH BUSINESS SYSTEMS**
15 **1561 Coventry**
Fresno, California 93727

STATEMENT OF ISSUES

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Rick Fong ("Complainant") brings this Statement of Issues solely in his official
20 capacity as the Acting 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 April 12, 2010, the Bureau received an application for an electronic
23 service dealer registration from Khamphanh Thephavong ("Respondent"), doing business as
24 Ameritech Business Systems. Respondent certified under penalty of perjury to the truthfulness of
25 all statements, answers, and representations in the application. The Bureau denied the application
26 on April 16, 2010.

27 ///

28 ///

1 6. Code section 9853 states, in pertinent part:

2 A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere made to a charge substantially related to the qualifications, functions, and
4 duties of a service dealer or service contractor is deemed to be a conviction within the
5 meaning of this article. The director may suspend, revoke, or place on probation a
6 registration, or may deny registration, when the time for appeal has elapsed, or the
7 judgment of conviction has been affirmed on appeal or when an order granting
8 probation is made suspending the imposition of sentence, irrespective of a subsequent
9 order under Section 1203.4 of the Penal Code, allowing that person to withdraw his or
10 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
11 guilty, or dismissing the accusation, information, or indictment . . .

12 7. Code section 22, subdivision (a), states:

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

17 8. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes
18 "registration" and "certificate."

19 **FIRST CAUSE FOR DENIAL**

20 **(Criminal Conviction)**

21 9. Respondent's application is subject to denial pursuant to Code sections 9831, 9841
22 subdivisions (a)(7) and (b), and 480 subdivisions (a)(1) and (a)(3)(A), in that Respondent was
23 convicted of crimes, as set forth in subparagraphs (a) and (b) below, which are substantially
24 related to the qualifications, functions and duties of a service contractor.

25 a. On or about December 14, 1992 in the criminal proceeding titled *People v.*
26 *Khamphanh Thepphavong* (Super Ct. Fresno County, 1992, Case No. 476172-2), Respondent
27 pled guilty to violating Vehicle Code section 10851 subdivision (a) (unlawful driving or taking of
28 a vehicle without the owner's consent, a felony) and Penal Code section 459 (second degree
burglary, a felony). On January 13, 1993 Respondent was sentenced to serve 2 years in Wasco
State Prison. The circumstances of the crime were as follows: On or about November 25, 1992,
Respondent willfully and unlawfully entered a locked 1986 Honda Prelude belonging to S.V.,
with the intent to commit larceny and drove or took the vehicle without S.V.'s consent.

///

1 b. On or about January 4, 1993 in the criminal proceeding titled *People v. Khamphanh*
2 *Thepphavong* (Super Ct. Fresno County, 1993, Case No. 477452-7), Respondent pled guilty to
3 violating Penal Code sections 211 and 212.5 subdivision (b) first degree robbery/robbery of any
4 person while using an automated teller machine, a felony) with an enhancement by virtue of
5 Penal Code section 12022.5 subdivision (a). On January 11, 1993 Respondent was sentenced to
6 serve 6 years in Wasco State Prison concurrent with the sentence in Case No. 476172-2 above.
7 The circumstances of the crime are as follows: On or about November 23, 1992, Respondent
8 willfully, unlawfully and by means of force and fear, took personal property from G.G. Further,
9 Respondent personally used a firearm in the commission of the crime.

10 **SECOND CAUSE FOR DENIAL**

11 **(Dishonesty, fraud or Deceit)**

12 10. Respondent's application is subject to denial pursuant to Code section 480
13 subdivision (a)(2) in that he committed acts involving dishonesty, fraud or deceit with the intent
14 to substantially benefit himself or substantially injure another, as set forth in paragraph 9, above.

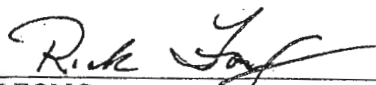
15 **PRAYER**

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

- 18 1. Denying the application of Khamphanh Thepphavong, doing business as Ameritech
19 Business Systems for an electronic service dealer registration;
20 2. Taking such other and further action as deemed necessary and proper.

21
22 DATED: _____

1-4-11

23 
24 RICK FONG
25 Acting Bureau Chief
26 Bureau of Electronic and Appliance Repair, Home
27 Furnishings and Thermal Insulation
28 Department of Consumer Affairs
State of California
Complainant

SA2010101612
10606062.doc

2011 JAN - 1 11:11 AM