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BEFORE THE
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: **ROBERT DAVIS,** **aka ROBERT P. DAVIS,** **aka ROBERT PATRICK DAVIS,** **dba TTL** Respondent.	Case No. AN 2011-418 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

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

2. On or about April 8, 2011, the Bureau received an application for an electronic service dealer registration from Robert Davis, also known as Robert P. Davis and Robert Patrick Davis ("Respondent"). In or about April 2011, Respondent certified under penalty of perjury that the information in the application was true and correct. The Bureau denied the application on December 27, 2011.

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STATUTORY AND REGULATORY PROVISIONS

3. Business and Professions Code ("Code") section 9831 states, in pertinent part, that the Director (Director of Consumer Affairs) 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 deny, suspend, revoke, or place on probation 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:
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> (1) Making or authorizing any statement or advertisement that is untrue or misleading, and that is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.
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> . . . .
>
> (7) Conviction of a crime that 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.
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> (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
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> (3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
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> (B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.
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> . . . .

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

6. Code section 22, subdivision (a), 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, in pertinent part, that a "license" includes "registration" and "certificate."

8. California Code of Regulations, title 16, section 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 functions authorized by his registration in a manner consistent with the public health, safety, or welfare . . .

FIRST CAUSE FOR DENIAL

(Criminal Convictions)

9. Respondent's application is subject to denial pursuant to Code sections 9841, subdivision (a)(7), and 480, subdivisions (a)(1) and (a)(3)(A), in that Respondent was convicted of crimes which are substantially related to the qualifications, functions and duties of an electronic service dealer, as follows:

a. On or about January 26, 1983, in the criminal proceeding titled *People v. Robert P. Davis* (Super. Ct. Fresno County, 1983, Case No. 291988-4), Respondent pled guilty to violating Penal Code section 476a, subdivision (a) (making, drawing, uttering or delivering an insufficient funds check with the intent to defraud), a felony. The circumstances of the crime are as follows: On or about December 23, 1982, Respondent willfully, unlawfully and fraudulently made, drew, uttered, and delivered a check in the sum of $4,028, drawn upon a bank, 49er Savings and Loan, knowing at the time of such making, drawing, uttering, and delivering that he did not have

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sufficient funds in or credit with the bank to cover the check, with the intent to cheat and defraud Cutler T.V.

b. On or about March 31, 1992, in the criminal proceeding titled *People v. Robert Davis* (Super. Ct. Kings County, 1992, Case No. C10484), Respondent pled guilty to violating Penal Code sections 288, subdivision (a) (lewd or lascivious acts upon a child under the age of 14 years), a felony, and 311.4, subdivision (c) (promote, employ, use, persuade, induce and coerce a minor under 17 years to engage in posing and modeling alone for the purpose of preparing a film, photograph, negative or slide), a felony. On May 1, 1991, Respondent was sentenced to serve a total of 10 years in Wasco State Prison. Respondent was also order to register as a sex offender pursuant to Penal Code section 290.

SECOND CAUSE FOR DENIAL

(False or Misleading Statements)

10. Respondent's application is subject to denial pursuant to Code sections 9841, subdivision (a)(1), and 480, subdivision (a)(3)(A), in that Respondent made a statement which he knew, or in the exercise of reasonable care should have known, to be untrue or misleading, as follows: In or about April 2011, Respondent certified under penalty of perjury on his application that he had been convicted of "lewd behavior" in 1992, Respondent's conviction of March 31, 1992, set forth in subparagraph 9 (b) above, but concealed the fact that he had also been convicted of another felony, making, drawing, uttering or delivering an insufficient funds check with the intent to defraud, as set forth in subparagraph 9 (a) above.

THIRD CAUSE FOR DENIAL

(Dishonest Acts)

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

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FOURTH CAUSE FOR DENIAL

(False Statement in Respondent's Application for Registration)

12. Respondent's application is subject to denial pursuant to Code section 480, subdivision (c), in that Respondent knowingly made a false statement of fact required to be revealed in his application for registration as an electronic service dealer, as set forth in paragraph 10 above.

PRAYER

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

1. Denying the application of Robert Davis, also known as Robert P. Davis and Robert Patrick Davis, for an electronic service dealer registration;

2. Taking such other and further action as deemed necessary and proper.

DATED: October 11, 2012

TONYA BLOOD
Bureau Chief
Bureau of Electronic and Appliance Repair
Department of Consumer Affairs
State of California
Complainant

SA2012104892