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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** **Furniture Retailer License Applicant** Respondent.	Case Nos. AN 2014-341; AN-2014-342 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Justin Paddock (Complainant) brings this Statement of Issues solely in his official capacity as the Acting Chief of the Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (Bureau), Department of Consumer Affairs.

2. On or about April 24, 2014, the Bureau received an Application for License – Home Furnishings from John Foto dba Santa Fe Seconds (Respondent) at 645 N. Avalon Boulevard, Wilmington, CA 90744. On or about April 21, 2014, John Foto certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on August 28, 2014.

3. On or about April 24, 2014, the Bureau received a second Application for License – Home Furnishings from John Foto dba Santa Fe Seconds (Respondent) at 8700 Santa Fe Avenue, South Gate, CA 90280. On or about April 21, 2014, John Foto certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Bureau denied the application on August 28, 2014.

JURISDICTION

4. This Statement of Issues is brought before the Director of Consumer Affairs (Director) for the Bureau under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 480 of the Code states:

"(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.

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

"(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.

"(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.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of

Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

"(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."

CAUSE FOR DENIAL OF APPLICATION

(Criminal Convictions)

6. Respondent's application is subject to denial pursuant to Code section 480, subdivision (a)(1), in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a Furniture Retailer, as follows:

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

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

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DISCIPLINE CONSIDERATIONS

7. To determine the degree of discipline imposed, Complainant further alleges the following:

a. On or about April 25, 2014, in a prior disciplinary action entitled *"In the Matter of the Statement of Issues Against John Foto; Santa Fe Seconds"* before the Bureau in Case Number AN 2012-36, Respondent's application for a furniture and bedding retailer license was granted, immediately revoked, and placed on probation for three (3) years subject to terms and conditions. That Decision is now final and is incorporated by reference as if fully set forth.

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 John Foto; Santa Fe Seconds for a Furniture Retailer License;

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

DATED: JAN 30 2015

JUSTIN PADDOCK
Acting Chief
Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation
Department of Consumer Affairs
State of California
Complainant

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